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ABSTRACT

This document contains the three 1997 English-language issues of Indigenous Affairs and the three corresponding issues in Spanish. (The last two quarterly issues were combined.) These periodicals provide a resource on the history, current conditions, and struggles for self-determination and human rights of indigenous peoples around the world. Articles on Canada discuss regional agreements that protect land rights and promote indigenous self-determination; opposition of the Innu Nation to Canadian military training flights that are adversely affecting their health, cultural revival, and environment; and the defeat of a Nunavut plebiscite that would have guaranteed equal numbers of male and female legislators in the new territory. Articles on Latin America discuss the presentation of the 1996 Bartolome de las Casas Award to the Federation of Natives of Madre de Dios (FENAMAD) for the defense of isolated and "noncontacted" indigenous peoples in the Peruvian Amazon; legalization of gold prospector enclaves on indigenous lands in Raposa-Serra do Sol, Brazil; indigenous politics and elections in Ecuador and Bolivia; negotiations on construction of a naval base in Kuna territory, Panama; assassination by Brazilian youths of Galdino Pataxo, a councillor negotiating land boundaries; indigenous mobilization in Argentina seeking implementation of constitutional guarantees concerning bilingual education, land rights, community land ownership, and control over natural resources; and human rights violations and murders of indigenous leaders in Colombia. Other articles cover politics, human rights, environmental issues, and cultural and linguistic rights in Papua New Guinea, Bangladesh, Tanzania, Russia, the Philippines, Botswana, Namibia, Australia, "French" Polynesia, and the United Nations and its agencies. (SV)

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Editorial

Indigenous Peoples win Prize on Oil Issue

On 13 March, 1997, the Peruvian indigenous organisation, the Native Federation of the Madre de Dios (FENAMAD), received the Bartolomé de las Casas award from the Spanish Prince, Felipe of Asturias, in Madrid. FENAMAD's President, Antonio Iviche and Harakmbut representative, Hector Sueyo, accepted the prize on behalf of the indigenous peoples of Madre de Dios, particularly those who live in voluntary isolation: the Yora, Amahuaca and Mashco-Piro.

'Voluntary isolation' refers to indigenous peoples who avoid dealings with the national society because they fear the consequences of permanent contact. The Yora, Amahuaca and Mashco-Piro currently face threats from outside interests, particularly from the oil company Mobil, which has been exploring in the area of the river Las Piedras. FENAMAD has been at the forefront of the defence of the local peoples.

The Bartolomé de las Casas award is a prestigious prize for those defending the rights of indigenous peoples throughout Iberian America. The recipients are frequently academics and indigenists, and so it was great news to hear that an indigenous organisation had received the award.

The national organisation Inter-ethnic Association for the Development of the Peruvian Rainforest (AIDESEP) had proposed FENAMAD for the prize in recognition of their position in the vanguard of the struggle against Mobil in Madre de Dios. AIDESEP took their proposal to the indigenous organised meeting of the Inter-governmental Panel on Forests in Leticia, Colombia, in December, 1996, where it was fully endorsed by representatives from over fifty indigenous peoples and non-indigenous organisations.

FENAMAD is a local organisation based in one of the most ethnically diverse parts of lowland South America - the region contains over 19 different indigenous peoples belonging to four language families. FENAMAD also has an ethnic sub-organisation, the Harakmbut Council (COHAR) which reflects the needs and desires of the indigenous peoples of the upper part of Madre de Dios. As other indigenous organisations, FE-NAMAD consists of a Congress, made up of community representatives, which elects a leadership every few years.

The history of FENAMAD has been dedicated to the defence of indigenous peoples in the Madre de Dios. It was founded in 1982 at the height of a gold rush which was seriously threatening the future of the Harakmbut peoples. The fear for their future was well-founded - the area had been devastated in the time of the rubber boom at the turn of the century where some peoples, such as the Toyeri, lost up to 95 per cent of their population.

FENAMAD has consistently denounced the abuses in the gold rush which affected the Madre de Dios region throughout the 1980s. Regular reports from the area describe the extreme exploitation of gold workers, child labour and slave-like practices. Community

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Cover: *The Prince of Asturias presents the Bartolome de las Casas Award to the President of the Federation of Natives of Madre de Dios. Photo: Casa Daldo, Madrid*

by Andrew Gray

leaders regularly receive death threats and in recent years several have been killed. The result is the colonisation of indigenous peoples' territories and the plundering of their resources.

FENAMAD has consistently taken a strong position to defend the rights of the communities, and against much opposition from local and national authorities, has managed to title 80 per cent of the indigenous communities in the region. The main task has been to defend these lands and, with recent support from IWGIA/DANIDA, FENAMAD and the Harakmbut people have, in January, 1997, begun a self-development project covering territorial consolidation and sustainable production methods.

However, FENAMAD came into international prominence last year through its spirited defence of indigenous communities and the rights of uncontacted Yora, Amahuaca and Mashco-Piro peoples facing the incursions of the oil company Mobil. Mobil explored the area of Las Piedras during summer 1996 against the advice of the Environmental Impact Assessment. FENAMAD denounced the risks Mobil caused the local peoples and an international campaign rapidly took effect.

FENAMAD was the first to release the information that there had been encounters of various kinds between those involved in the oil exploration activities and the isolated peoples of Las Piedras and have single-handedly stood out against the denials. While other NGOs have been seduced by Mobil's financial offers, FENAMAD has remained firm, prepared to discuss but not compromise the rights of these peoples.

Apart from the area where voluntarily isolated indigenous peoples live, Mobil is preparing to explore throughout the homeland of the Harakmbut people in the Karene area between the Manu National Park and the Tambopata Candamo reserved zone. In 1991, FENAMAD managed to demarcate and complete the studies for an Amarakaeri Communal Reserve covering this homeland and its sacred areas. The Peruvian government has however, refused to approve the reserve, creating obstacles, which coincide with Mobil's interest in exploring for oil in the same area.

The Bartolomé de las Casas award is a great achievement because it recognises the struggle FENAMAD is waging and, as Antonio Iviche says, it also recognises the struggle of all indigenous peoples of the Amazon who are standing up for their rights in the face of multinational companies, colonists and authorities. The award is also a message to FENAMAD and others in their position that they are not alone.

However, FENAMAD is already facing a backlash to the award. Mobil is currently moving into the established communities of the Karene area, trying to extract agreements to allow oil exploration, which could be used against FENAMAD. Even though communities are united in their opposition to oil exploitation on their homelands, Mobil has visited the communities of the area three times since January, offering goods, employment and cash incentives in return for a contract. Furthermore, sectors of the local and national media have insinuated that there are no uncontacted peoples in Las Piedras and that the award will corrupt and be misused. In fact, FENAMAD is already using the money (about US$20,000) for the demarcation of the area where the isolated indigenous peoples live in order to create a 'territorial reserve', recognised and protected by Peruvian law.

IWGIA is delighted that FENAMAD has received the Bartolomé de las Casas award. It illustrates the solidarity between organisations in the North with the indigenous peoples of the Amazon. We wish FENAMAD well in the future and express our solidarity and support in their struggle for the rights of the indigenous peoples of the Madre de Dios Peru. ❑

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PERU
Indigenous People and Oil in the region of Madre de Dios

by Alfredo García Altamirano

Background

Historically, the Madre de Dios River basin has been the traditional territory of various indigenous peoples including the *Harakmbut* (*Harakmbut* linguistic family), *Matsigu-enka* (*Arawak*) and *Ese eja* (*Tacana*) peoples.

The 'rubber rush' at the end of the nineteenth century scattered these tribes causing a demographic crisis between various indigenous groups as forays into their land, contagious diseases, massacres and confrontations with rubber tappers became more and more common.

Dominican missions arrived in the basin, seeking to Christianise the population while at the same time teaching them trade and transactions based on market principals meant to promote a mercantile relationship between indigenous people and local merchants.

The rubber tappers, for their part, introduced other indigenous peoples into the region such as the *Shipibo-conibo* and *Kichwa runa* peoples. These peoples remained in the region after the end of 'rubber fever' in the late 1920s.

The mining cycle

The region was barely accessible to the rest of the country until the 1970s when a new economic cycle developed based on gold mining. A main road from Cusco to Mazuko and Puerto Maldonado aided the massive migration of individuals from the upper Andean communities and urban centres of the Peruvian southern sierra looking for a quick and easy fortune in the Madre de Dios basin.

The gold mining zone of Madre de Dios coincides with traditional territory of the Arkmbut, *Araseri*, *Pukirieri* and other Harakmbut groups. Harakmbut villages have been invaded by miners since the start of the gold mining boom.

The territorial problem, FENAMAD and COHAR

Faced with this situation, the Federation of Natives of Madre de Dios (FENAMAD) was founded in 1992 on the initiative of the Harakmbut people in order to defend their territorial rights and demand that local and national authorities resolve their claims. In later congresses, FENAMAD progressively incorporated other villages into the organisation, seeking to build an alliance

of indigenous peoples of the region in order to address the problems created by the most recent wave of colonisation.

In 1992, before the creation of FENAMAD, eight indigenous towns had obtained, on their own, official recognition as native communities, but only four had received title-deeds.

On the basis of their efforts, congresses and the work of their leaders, as well as support from private and public institutions, principally Centro Eori, the Corporación Departamental de Desarrollo and the Ministry of Agriculture, FENAMAD won official recognition for 19 more indigenous towns and the titling of 15 of them in 1995. In 1997 titling of two more communities was achieved, bringing the total to 27 recognised native communities and 21 titled native communities.

Moreover, in 1993, the Harakmbut Council (COHAR) was founded. It represents an intermediate organisational level between the Harakmbut communities and FENAMAD. Since its creation, COHAR has participated in several joint actions with FENAMAD.

The oil front

During those years, the conflicts between indigenous peoples in voluntary isolation and oil and lumber companies in the Urubamba River basin, west of the Manu National Park, resulted in a whooping cough epidemic which wiped out more than half of the population of the *Yura* people (*Pano* linguistic family) located along the Chaspajali River, Alto Manu, in the Manu National Park.

Indigenous people in voluntary isolation who live at the sources of the De los Amigos and Tacuatimanu Rivers or the De las Piedras, Tahuamanu, Chanlesa and Yacu Rivers, to the north of the department of Madre de Dios, bordering the Urubamba River basin (Ucayali region) respond to the pressures of the lumber industry, colonisers and oil companies.

Since its foundation, FENAMAD has also taken action to defend other indigenous peoples living in voluntary isolation. Together with other indigenous and private organisations, they supported the creation of the Nahua-Kugapakori State Reserve in 1990. Located to the west of Manu National Park, the establishment of this reserve marks an important precedent in the Peruvian Amazon

Territorial arrangement in the basin

In their struggle for the recognition of indigenous territorial rights, FENAMAD has also attempted to obtain legal possession of other parts of territories traditionally used for subsistence needs such as hunting, fishing and gathering of natural resources, because existing title-deeds do not correspond to the actual size of the area utilised by indigenous peoples.

In a 1991 agreement with the Ministry of Agriculture, FENAMAD succeeded in gaining approval for a study regarding the establishment of the Amarakaeri Communal Reserve. This study was presented to the Ministry of Agriculture in 1992. This case served as an example for other actions involving territorial organisation in central Ucayali-a region in which new communal reserves have been created. However, in Madre de Dios, the Amarakaeri Communal Reserve has yet to be legalised due to pressure from powerful local groups who are seeking to earmark this area for commercial purposes, ie. land and natural resource speculation. For example, they have recently requested the right to drill there.

Mobil Corporation in Madre de Dios

Mobil possesses concessions to Lots 77 and 78. Lot 77 affects the northern portion of the department of Madre de Dios and the Manu National Park where the *Pano* (*Yora*) speaking groups live as well as the 'Ma*shco piro*' (*Arawak* linguistic family) as they are called locally.

Lot 78 affects the central area of the Tambopata Candamo Reserve Zone (1990), the traditional territory of the Ebe eja people. And, to the northeast, it affects part of the traditional Harakmbut territory, including the proposed Amarakaeri Communal Reserve.

The seismic exploration phase of the oil exploitation process began in March 1996 and will continue until September of this year. In January, 1997, Mobil Corporation concluded its seismic work on Lot 77, but still has realignment of 400 km of seismic lines in Lot 78 pending. Work is planned to resume in April.

FENAMAD and Mobil

In its ninth congress, held in the community of Santa Rosa in December 1995, FENAMAD proposed that Mobil Corporation support the creation of the Amarakaeri Communal Reserve in order to avoid problems arising from further seismic exploration activities. However, Mobil does not have any influence on the decisions of the central government in this case.

Together with another local organisation, the Agricultural Federation of Madre de Dios (FADEMAD) and the Tambapta Provincial Municipality (MPT), FENAMAD organised a forum in Puerto Maldonado, on the theme of 'Sustainable Development in Madre de Dios: Protected Areas, Local Peoples and Energy Resources' (August 1996). Among their main conclusions were the demands, again, that the central government immediately create the Amarakaeri Communal Reserve as well as the necessity of FENAMAD and FADEMAD's participation in Mobil's work in the department through local monitoring activities.

In conjunction with this, FENAMAD contacted the subcontractor, Grant Geophysical, when this company contracted the *Yiné* indigenous people from the village of Monte Salvado. The village is located midway along the Tacuatimanu or De las Piedras River as a result of th eYine people's recent migration from their community of origin, Miaria, Urubamba. The Yine people were asked to serve as guides. In September, 1996, FENAMAD supplied Mobil with information from reports the guides had made. Mobil responded by acknowledging the presence of indigenous people in voluntary isolation in the area.

With the success of these initiatives, FENAMAD gained support for its claims. Since then, various efforts have continued to unfold.

Mobil has also sought direct negotiations with certain communities. This is the case with the *Kotsimba* people, in the Tambopata Candamo Reserve Zone, and the *Diamante* people, in Manu. Mobil negotiated with both peoples for the right to use their airport as a base for Mobil's operations. Mobil has likewise lobbied heavily both nationally and locally to gain support for their presence in the area and has even sought to co-operate with victims of the heavy February rains in the Peruvian Amazon.

Furthermore, between January and March, 1997, FENAMAD and COHAR have participated in Mobil Corporation's discussions with the Puerto Luz Harakmbut community which includes the San José del Karene, Barranco Chico, Boca del Inambari, Boca Isiri, Shiringayec and Shintuya Harakmbut communities. The central issue is that indigenous territory would be crossed by one of the seismic exploration lines belonging to Mobil. The laying of seismic lines across the territory designed as the future Amarakaeri Communal Reserve is also on the agenda for discussion.

FENAMAD's immediate demands

In addition to insisting on the need to create the Amarakaeri Communal Reserve, the native communities most directly affected and their spokesorganisation, FENAMAD, are demanding that Mobil Corporation also establish a reserve benefiting indigenous peoples in voluntary isola-

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tion in the area of the upper course of the Tacuatimanu or De las Piedras and other adjacent rivers.

On the national and local level, some social actors, among them Dominican missionaries, have sought to reduce the importance of or raise doubts about the existence of these indigenous peoples. FENAMAD and COHAR's response to this has, in part, been to make their own points of view known in Lima, Pucalpa and Puerto Maldonado. On 26 March in Puerto Maldonado, shortly after the Bartolomé de las Casas awards ceremony, FENAMAD and COHAR organised a conference around the theme where they stated, in front of the media and local authorities, their demands for the immediate creation of the Amarakaeri Communal Reserve and a reserve at the De las Piedras River. Their demands were well received by those in attendance.

Perspectives

In their work, both Mobil Corporation and the central government should focus on harmonsing national interests (obtaining earnings through hydrocarbon production) with local interests. The ultimated goal should be the resolution of the population's basic needs, both those of the Amazonian indigenous people and non-local inhabitants.

Unfortunately, this is not now the case. The Mobil Corporation only prioritises its commercialagenda, neglecting the fact that biological and cultural diversity are increasingly important questions affecting the future of humankind. Furthermore, these themes are of interest to a worldwide social movement which has begun to respond to these questions.

In short, this region has attracted greater local and national attention thanks to the initiatives launched by FENAMAD as well as others. These initiatives are an attempt to call attention to the problems of the region's indigenous people.

FENAMAD faces many demanding challenges in the future, not only in relation to the issue of oil but also mining in general, an activity which continue to be a significant problem for the Harakmbut peoples. Therefore, it is important to lay plans, and, with this region as a base, we can co-operate with other indigenous peoples on local, national and global levels. We can and must exchange experiences and work together in solidarity.

Alfredo Garcia Altamirano is co-ordinator of FENAMAD's integral development programme for the region of Madre de Dios, 'Plan Karene'.

Speech by the president of FENAMAD at the Sixth Awards Ceremony of the Bartolome de las Casas Award

My name is Antonio Iviche Quique, president of FENAMAD. I come from the *Harakmbut* people who for 3-5,000 years were the most numerous nation inhabiting the region of Madre de Dios. Our people have lived in harmony with all of the forest's species, conserving, respecting and taking care of nature. Today, these lands are recognised as the capital of biodiversity in Peru and one of the most biodiverse areas on the planet.

70 years ago, when our grandparents first came into contact with national society, all of the indigenous peoples in Madre de Dios had suffered from a severe population reduction. The Harakmbut people were reduced to five per cent of their former number and other peoples were completely wiped out.

Colonisation increasingly marginalised us, reducing our lands. Gold exploitation contaminated our rivers and the banks were reduced to stones and infertile soil. As a result of a law passed in October last year, our communities' land has been divided into plots and to top it off, in December it will be handed over to gold miners.

Felling of timber is turning our forests into deserts and consequently food, medicine and resources to build houses are becoming scarce. Ultimately, the space inhabited by all the species and the spirit of our ancestors is being irreparably destroyed.

Moreover, at the same time as resources are being exploited, our culture is scorned. Our wealth of traditional knowledge is deteriorating, new illnesses are being introduced, new needs are continuously being imposed and poverty not previously known in the region has become widespread. And when we defend ourselves, we are threatened and imprisoned. In the face of all this,

Speech by his Royal Highness the Prince of Asturias at the Sixth Awards Ceremony of the Bartolome de las Casas Award

Madrid, 13 March 1997

It is with great pleasure that I once again help the Casa de América in presenting the Bartolomé de las Casas Award. This award was created to honour those individuals or institutions which have distinguished themselves in the struggle for understanding and harmony with America's indigenous peoples, in protection of their rights and with respect for their values. Since it was first awarded in 1991, this Award has been a clear testimony of our active participation in the safeguarding of Amerindians.

In 1996 the jury for the Award decided to award it *ex aequo* to FENAMAD for their ongoing work in defence of brother 'non-contacted' or 'voluntarily isolated' indigenous peoples and to Guillermo Céspedes del Castillo, Professor of History of Geographical Discoveries, for having dedicated his life to historical research. His work has made a significant contribution to the creation of understanding and harmony with American indigenous peoples.

'The Federation of Natives of Madre de Dios' was founded in 1982 to respond to the needs of indigenous peoples of the Peruvian Amazon and to confront different threats to their livelihood: the land and resources they have been given.

Since 1986 FENAMAD has done an exemplary job not only in the securing and defending of the rights of the Nahua and Manu peoples who inhabit those territories but also in the promotion of health and education policies aimed at strengthening the cultural identity of the Nahua and Manu peoples.

FENAMAD's most recent achievement has been the legal recognition of the Federation as the legitimate representative of the Nahua and Manu peoples in the wake of indiscriminate oil-related activities on their lands. FENAMAD has obtained assurances that these activities will be monitored and that economic compensation will be awarded for damages incurred.

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in 1982 we formed FENAMAD to represent and defend all of the indigenous peoples in Madre de Dios. Today, after having formed indigenous communities, we represent all forty-seven communities found in the region of Madre de Dios.

Since its establishment, FENAMAD has worked to protect our peoples' rights:
- helping indigenous people to recover lands belonging to communities invaded by miners;
- negotiating for an end to illegal contracts held by timber merchants in our communal territories;
- bringing an end to timber merchants' abuse of the 'non-contacted' peoples.

We have also promoted numerous programmes:
- land recognition and titling;
- development of a draft law on mining issues for indigenous communities;
- preparation of documentation needed for the establishment of the Amarakaeri Communal Reserve;
- reassessment of indigenous doctors and traditional medicine;
- scholarships for secondary school and university students.

In the midst of this process to protect our rights and progress in our work to carry out our own development, a new threat has arisen. In March, 1996, three million hectares of Madre de Dios, inhabited by indigenous peoples, were handed over for oil exploitation to Mobil, Exxon and ELF oil companies. The *Yora*, *Aminahua* and *Mashco piro* indigenous peoples who live in voluntary isolation live in this so-called Lot 77. They fled to the headwaters of the most remote rivers in the zone after having survived the vicious rubber rush which resulted in the worst known period of death, violence and slavery of our peoples.

Their little or no contact with the rest of society means that they are especially vulnerable in the face of previously unknown illnesses which have already caused the extermination of other peoples in similar conditions. The presence of oil companies on their lands constitutes a significant threat to their survival. Therefore, FENAMAD and all of the peoples we represent feel the urgent need to inform the government and companies of this situation in order to protect our brothers and sisters' well-being. We have also recently experienced the severe effects of contact with the national society. That is why we have worked so hard to avoid a repetition of these irreparable situations.

The Bartolomé de las Casas Award, recognising our efforts, is a message which tells us that we are not alone and that in addition to those only interested in oil exploitation, there are broad sectors of society who are aware of the threats to life, liberty and healthy development of indigenous peoples living in forests.

It is an important message for us because it encourages us and signals that our concerns are taken seriously. But it is also important for other indigenous peoples in Peru who, in most cases, are affected by the presence of oil companies which can definitively alter the future of their children and their children's children. These peoples were never consulted about the exploitation of oil on their lands.

Finally, I believe that the Prize is also important for Peruvian society because it draws attention to the importance of protecting the cultural and human richness brought to the country by indigenous peoples. ❑

Although these results are significant in and of themselves they are not enough to satisfy FENAMAD. This is why I want to highlight those of their undertakings which are orientated towards the future and the development of peoples and communities to whom their work is dedicated.

'Voluntarily isolated' peoples are the best protectors and guardians of the environment and ecosystems they inhabit and where they take care of their ancestral territories. For this reason they must be protected.

Over the centuries these peoples have developed a great number of strategies allowing them to adapt to their environment as well as to various production systems able to adapt to change and to maintain that which we would call 'sustainable development' in modern terminology. This is another cause for our support.

Moreover, we can learn many things from them - the admirable economy with which they optimise necessary resources rather than destroying them; their ingenious and efficient adaptation to the environment; and their patience in daily life as they search for the most suitable means of ensuring a better future.

The indigenous peoples of the Americas are our fellow countrymen in the Latin American community, and they fill us with pride. They form an integral part of our past and our present and they possess their own rights which we are obligated to respect.

That is what the doctrine of Bartolomé de las Casas signifies. It is alive and strong in our own time and able to overcome the misuse it has been subjected to in the past.

Don Guillermo Céspedes del Castillo, Professor of History of Geographical Discoveries at the Universidad Complutense in Madrid, has dedicated the majority of hisprofessional life to a study of understanding and harmony throughout the whole of Spain and America's history.

As head of Publications and editor of the *Annual of American Studies*, member of the Royal Academy of History and corresponding member of the academies in Mexico, Peru, El Salvador, Ecuador, Panama, Uruguay, Bolivia, Puerto Rico, Guatemala, Santo Domingo and Salzburg, he has shared his knowledge with others thereby contributing to the strengthening of this relationship through numerous books, essays and articles. Furthermore, he has collaborated on such eminent works as 'The Social and Economic History of Spain and America', under the direction of Professor Vicens Vives. In this series he was in charge of the volumes covering America in the time of the reign of the Catholic Monarchs as well as the state of the situation in the West Indies during the XVI and XVII centuries.

In the figure of Professor Céspedes we clearly see the qualities of all persons dedicated to the examination of our common history and to its illumination with the aid of the latest knowledge and the most current historiographic techniques.

Professor Céspedes teaches us the vital lessons of our past. He illustrates the errors of our ways so that we might avoid their recurrence in the future and he opens a new door to coexistence - a sense of solidarity that leads us to build a joint community based on convictions and emotion; an energetic and fearless community able to build the Latin America which should be one of the leading forces of the third millennium.

I extend my heartfelt congratulations to all of those who have been honoured with this Award today. I am confident that their spirit and the spirit of the Award will live on and bear the fruit we require to strengthen our union and better fulfill the task before us. From this day onwards I offer you my co-operation and support. ❑

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BRASIL
Cut up in Raposa

by the Instituto Socioambiental

A Ministry of Justice Resolution legalising *garimpeiro* (gold prospector) enclaves and ranches as well as their access roads, could reduce the indigenous land of Raposa-Serra do Sol by more than 300 thousand hectares, dividing up a once-unified area of land and threatening to exclude more than twenty small villages and other indigenous sites from the new boundary to be demarcated.

1. Description of the Raposa-Serra do Sol indigenous land

The indigenous land of Raposa-Serra do Sol is located in the northeast part of the State of Roraima in the interfluvial region formed by the Surumd, Mad and Tacutd Rivers. To the north this land stretches to the Brazilian border with Venezuela and to the east, Guyana. On the other side of the Surumd River (to the west) lies the Sno Marcos indigenous land, already demarcated by official sanction. Raposa-Serra do Sol has been inhabited since time immemorial by the *Macuxi*, *Ingarikó*, *Waixana*, *Taurepang* and *Patamona* peoples. There are records of other ethnic groups who inhabited the area in the past but emigrated north or were assimilated by the Macuxi. The current population of the area is estimated to be 12,000 indigenous people spread among 100 small villages. There are also non-indigenous settlers and garimpeiros living illegally in the interior. Their number fluctuates but is estimated to be about 2,000 persons.

Colonisation and occupation strategies were implemented in the region until its emancipation in 1988. These strategies were undertaken during different historical periods, on the initiative of the Portuguese crown, by central governments of post-independent Brazil and governments of the State of Amazonas while the Raposa-Serra do Sol region was incorporated as a part of the current State of Roraima and by the governments of the Federal Territory of Roraima. The greatest flow of non-indigenous settlers took place in 1990 after the first major withdrawal of garimpeiros from the interior of the Yanomami Territory. The garimpeiros, backed by political leaders of the emerging State of Roraima, relocated in Raposa Serra do Sol where they established living quarters and brothels.

Nevertheless, colonial strategies have always been of limited effectiveness due to the unpredictable farming conditions in the region. Part of the indigenous territory reaches the so-called 'lavrado', a grass plain susceptible to flooding, though it offers natural pastures for grazing. Here, large-scale cattle breeding is carried out on ranches which have generally been poorly constructed (wooden rooms, etc.). Another part of the Raposa-Serra do Sol indigenous region is formed by the sierras of the Macizo de las Guayanas where colonial occupation is a recent occurrence and whose economy is based on *garimpo* (prospecting) activity. Although this entire area has been permanently inhabited by indigenous peoples, colonial enclaves remain in the interior, inserted between small villages and other indigenous sites.

The indigenous peoples of Raposa-Serra do Sol continue to practise their traditional economic activities: hunting, fishing and the gathering of fruit and other products necessary for construction of their houses and for their general survival. They have begun to pursue some economic activities typical of the region such as cattle breeding, and their herds often exceed those of non-indigenous in-habitants. There are also indigenous groups who currently practise gold and diamond *garimpo* by hand.

Attempts towards the official recognition of the area as an indigenous territory go back to the beginning of the century when governmental demarcation efforts were first initiated. As early as 1917 the Government of Amazonas published State Law No. 941 earmarking the lands between the Surumd and Cotingo Rivers for the Macuxi and *Jaricuna* indigenous peoples. Nevertheless, the land was never officially demarcated and has always been the site of hostilities between competing economic interests and regional politicians.

Even though the region's indigenous people were contacted following the start of the occupation of the Branco River valley, Funai first took precautionary measures regarding recognition of their territory in 1977. That same year, the Interministerial Work Group was created to formally demarcate the area. However, a conclusive

report of its work was never presented. In 1979 a new Work Group barely identified part of the territory to be demarcated. In 1984 another Work Group failed to obtain conclusive results. In 1988, during resistance to the Calha Norte Project, more than one Interministerial Work Group returned to the issue of land appropriation and how to map the area without arriving at any agreement about how to address the area as a whole. In fact, demands for official recognition of the area grew, resulting in the proposal for the area's delimitation approved by Funai and sent to the Ministry of Justice for official approval in 1993. Since then, the proposal has been further secured via ministerial decrees calling for Funai to determine the extent of the area to be demarcated. The size of the identified area is approximately 1,678,800 ha.

The process leading to the demarcation of the indigenous land of Raposa-Serra do Sol has not progressed since the start of the current government and this process was challenged last year by Decree 1775/96. Challenges to the boundaries were presented by non-indigenous occupants and the government of Roraima. At the end of the deadline to review the challenges, the Minister of Justice asked Funai for new information on this and seven other demarcation processes to be submitted within 90 days. At the end of this period the Minister of Justice visited the area, met with indigenous people and left the impression that the government would take favourable action on their behalf. Nevertheless, two months later, Resolution No. 80 was released which, although it rejected previous challenges, ended by proposing a significant reduction in the size of the area suggested by Funai. This was the first time in the 1990s that the Federal government has formulated a proposal reducing the size of indigenous land.

Resolution No. 80

The resolution issued by the Minister of Justice regarding the indigenous land of Raposa-Serra do Sol, approved on 20/12/96 and published on Christmas Eve, contains numerous errors and distortions which will lead to the violation of indigenous territorial rights established in the Constitution of Brazil. These errors and distortions are discussed below.

2.1. Regarding the process of identification of the indigenous area

Resolution No. 80 begins by tracing the history of attempts to identify the indigenous area. The resolution gives three pieces of incorrect information here:

(a) In remitting the analysis of the first acts of the Public Authority recognising the area as indigenous, acts put into practice by the State of Amazonas from 1917 on. The Minister of Justice reports the fulfilment of a first demarcation action through Law No. 941 which had been annulled and later reconfirmed by the drawing up of a concessionary title. This first case of demarcation was clearly not taken into consideration as the Minister concluded that 'in spite of this new piece of information (the reinstatement of Law No. 941) not only was the aforementioned concessionary title not found, no information exists even about the drawing up of the title'. Below is a copy, in full, of the title the Minister was unable to locate:

STATE OF AMAZONAS
GOVERNMENTAL PALACE

Section No. 252

The Federal Inspector of the State of Amazonas, making use of the legal powers invested in the position and Article 1 of Law No. 941, from 16 October, 1917, which recognised as valid the process of mediation and demarcation of the lot encompassing lands found between the Surumd and Cotingo Rivers and the Imairary-ipim and ConopRa-ipim sierras, in the municipality of Bõa Vista de Rio Branco, placing the area under the authority of the Macuchy and Jaricuna indigenous peoples, including the right to exploit the land, as called for in Articles 1 and 5 of Law 941, from 16 October 1917, seeks the execution of the act on 11 February of the current year and thus resolves to declare that the referred to lot encompassing land found between the Surumd and Cotingo Rivers and the Imairary-ipim and ConopRa-ipim sierras, in the municipality of Bõa Vista de Rio Branco, in this State, is reserved as the location, place of residence and for the use of the Macuchy and Jaricuna indigenous peoples.
Let it be observed.

Governmental Palace, Manaos
17 March 1925

Alfredo Sá

As can be seen above, the 1917 demarcation law was reinstated in 1925. Therefore, it may not legally be overlooked by the Minister of Justice, and no other type of titling or occupation of the area in question is allowed.

(b) Referring to Funai's recent attempt to identify the indigenous area for demarcation purposes, the Minster of Justice, makes mention of 'studies from 1981 which arrived at 1,347,810 ha for the area'. At the end of the resolution, he suggests that the definitive boundaries to be demarcated observe, 'In principle the dividing line called for in the 1981 decision'. The referred to studies were inconclusive, uncharacteristic of a 'finding'. Moreover, no anthropologist signed the studies, and they never received Funai's approval nor were they submitted for a binding political decision. This being the case, the Minister should not be able to use them as a reference, substituting them for the proposal sent by Funai in 1993 and undermining the express competency of the anthropologist involved in the identification process outlined in the Funai proposal.

Nevertheless, it should be emphasised that the ministerial resolution's proposal for a fixed border fully restricts the area from being definitively demarcated as otherwise. Villages and paths are a part of indigenous land in all boundaries already studied, including that of 1981. Making use of old proposals, formulated in special political contexts to justify the contents of his own Resolution, the Minister picks and chooses at his own discretion. In the end he formulates his own proposal reducing indigenous land much more radically than the others. In trying to mediate existing border studies, the Minister appears to be seeking a compromise between the 1993 demarcation and the government of Roraima's proposal to demarcate just a few small sites (or islands) near indigenous enclaves in order to clear the rest for settlers and garimpeiros. The proposal was expressly rejected by the very same Minister's office on the grounds of unconstitutionality.

(c) In another part of the same resolution the Minister alleges that anthropological findings providing the basis for the 1993 Funai proposal are 'absolutely soundless' and Ado not contain a single specific point showing' indigenous occupation of the part of the area excluded in the 1981 study. Nevertheless, this part of the area, situated in the plains to the south of the area identified in 1993, where, in addition to the existence of several small villages, there is a concentration of perennial rivers and lakes, is referred to more than once in the anthropological findings as well as in additional information provided by the Directora de Asuntos concerning Funai land - information gathered at the request of the Ministry of Justice. The following quota-

tions from the anthropological finding will serve as examples:

To the south the interfluvial area Surumd-Mad (Ireng) and the main tributaries of the Branco River encompass extensive plains known as natural fields. These fields are covered by birdlime grass and small sparse bushes and to the north...

During the short transition period between seasons the vegetation on these fields, previously submerged, turns green again. The animals, isolated in the sierras and once again ready to range the more extensive habitat, emerge from their refuges in the areas of the plains not affected by flooding,. The indigenous peoples who live dispersed in small domestic groups reunite, unifying their extensive families in small villages, going on hunting expeditions and participating in other related economic activities.

During the summer months the fields' vegetation shrivels and the green foliage is limited to the margins of the rivers and canals which are now mostly dry or in the process of drying out. The indigenous people are forced to turn to the wells in the dried-out river bed and those lakes which still have water. In the process they manage to surprise animals seeking watering holes in the same places and continue their principle activity, fishing. Such activities should be understood as an integrated part of larger exploitation and production methods practised by all local groups throughout the entire area in question. These activities constitutes a long-term system for the circulation and distribution of resources, indispensable for the physical and cultural survival of indigenous peoples.

In effect, the borders referred to in the 1981 studies, wrongfully adopted by the Minister as the boundary line for the definitive delimitation, exclude, in addition to some small villages, the *buri* palms area, the pastures and perennial lakes used by indigenous people for fishing. Their exclusion from the area to be demarcated seriously compromises indigenous peoples' subsistence activities.

2.2 Regarding the future of the indigenous land

The ministerial resolution contains various references concerning the validity of the findings behind the 1993 Funai proposal. Below are a few of these references:

In recognition of the anthropological findings demonstrating traditional indigenous occupation of the area in question, enjoying a presumption of accepted juris tantum status of their veracity,...

The proposal outlining demarcation of the area in question, in order to preserve the cultural unity of the indigenous peoples who inhabit the area, corresponds, as such, to the constitutional points established in Article 231,1 of the Republican Charter.

However, the resolution affirms that 'although Funai's proposal for demarcation, in its broad outline, is in accordance with the constitutional paradigm, this fact will not impede some small adjustments, dictated by public interest, to preserve already consolidated non-indigenous settlements in order to safeguard legal situations established by the Federal Public Authority itself'. It continues by claiming that Funai would remove parts of the identified area, which implies a reduction and segmentation of the unified area. It is worth analysing each of the two 'small adjustments' sought by the Minister of Justice in its own proposal.

2.3 Regarding exclusion of villages

The Minister calls the so-called Uiramutã, Surumd, Mutum, Socó and Agua Fria fenced in areas 'populated, consolidated settlements'. And he considers the mishandling of the areas containing the settlements a matter of 'public interest', excluding them from the perimeter to be demarcated. However, the ministerial text at no point reveals that the settlements referred to are in fact centres for garimpeiros and brothels.

In effect, the government of the State of Roraima, which historically opposes the demarcation of indigenous areas, supports any invasion of indigenous land and invests in an infrastructure supporting *garimpo* villages. This includes the establishment of main roads in areas not considered as 'Populated, consolidated settlements'. Various illegal activities are carried out in these settlements, among these, pillaging minerals, cattle rustling, contraband and prostitution. However, a significant decrease in the population of these centres has been observed in later years due to a reduction in mineral resource deposits. In order to impede demarcation of the area a local governmental initiative aimed at hiring part of the population in order to encourage them to remain there, including concocting a story about an impending social crisis, was implemented.

Also included in the government of Roraima's strategy of colonisation is the creation of municipalities with their seat in the interior of indigenous lands. This is the case of the Uiramutã municipality, recently established on the indigenous land of Raposa-Serra do Sol. This is a characteristic example of the absurd proliferation of municipalities without the budget to sustain them. The country would like to see this rectified on the occasion of the announced political reforms.

There are at least five good reasons that 'Public interest' cannot be used to argue for the exclusion of the area referred to from the perimeter to be demarcated: (a) systematic violation of the law and customs by the invading settlements; (b) illegal appropriation of natural resources; (c) deliberate and widespread concealment of taxes owed to the Public Authorities in connection with mineral extraction; (d) destruction of vegetation; destruction and pollution of rivers and canals on indigenous land; and (e) a series of conflicts between indigenous and non-indigenous individuals resulting in the death of at least 11 indigenous persons over the last eight years.

The Minister of Justice alleges in his resolution that the decision to exclude invaded areas is founded on the Federal Supreme Court decision rejecting recognition of the legal recourse presented by the Federal Government via the Federal Public Ministry, against the holding of elections for the establishment of the Municipality of Uiramutn. However, the Supreme Court decision was a decision limited to considering the process adopted in the case as inadequate. It did not mean the exclusion of villages, considered an integral part of indigenous land, from the areas.

In spite of the weight of the official considerations of the judgement, these considerations are relative in that the Supreme Court decision signified that the proof that indigenous land was the central issue would only be able to be produced via a common legal procedure aided by technical, anthropological expertise. This is impossible in the context of the proposed action. Therefore, the legal argument used by the Ministry consists of a sophism and is the result of an apparently deliberate attempt to dis-

tort the meaning of the Supreme Court decision.

Due to the Supreme Court decision, the demarcation act itself would evidently be unable to render the already created municipality invalid and would have to exist alongside it. This creates an absurd situation in which a municipality whose seat operates on indigenous land continues to exist while the legal authorities involved decide how to handle the issue. Or until the good sense of political elites leads to the taking of steps against the proliferation of municipalities already recognised as non-viable, by force of political-electoral interests of the regional leadership.

Furthermore, the Minister of Justice argues that the areas in which the villages are situated meet none of the four components of the constitutional definition of indigenous lands. But the resolution omits crucial information specifying that the small indigenous villages (Uiramutn, Socó, Surumd, Agua FrRa), in addition to several others located nearby, exist hemmed in by four of the five previously mentioned settlements. Now, if the component of indigenous habitation is met, how can inapplicability of the constitutional definition be alleged? In reality, the pending exclusion of these areas implies a flagrant constitutional violation.

Added to this is the fact that illegal activities carried out by garimpeiros are not limited to the settlements where they live but also involve the rivers and canals crossing indigenous territory, polluting their water. Prospecting also causes other damage, including the reduction of flora and fauna resources as well as the creation of frequent and direct conflicts with indigenous people.

2.4. Regarding incidental title and the Guanabara hacienda

The previously indicated ministerial errors of not taking the 1917 demarcation into consideration nor the attributes of indigenous habitation of the southern part of the area identified in 1993, as well as considering the '1981 decision' as a reference for defining borders, evidences the absurd conclusion to validate titles illegally issued by the Incra since 1981. However, paragraph 60 of Article 231 of the Constitution clearly considers as 'null and void, without legal effect, acts whose objective is occupation, domain or possession of lands referred to by this Article...'. Now, if the Federal Public Authority practised unconstitutional acts, the Minister would not be able to endeavour to rectify its effects at the cost of a part of indigenous territory. If the Minister considers that the individuals deserve compensation as a consequence of these acts, it should focus on indemnifying them and resettling them.

Nevertheless, by seeking to adopt the borders described in 1981 as a way to legitimate later titles, the Minister threatens to exclude areas where eight other small indigenous villages (Urubu, Preguicinha, Vista Alegre, Patativa, Jauari, Laje, Nativi and Matiri) are located, from being demarcated. Additionally, secluded areas used for cattle breeding, buri palm forests and lakes used for fishing and gathering by tens of indigenous communities are also threatened with exclusion. In the case that the reference to the 1981 borders was also adopted for the northeastern part of the area, which is not mentioned in the ministerial resolution, another two small villages, Canauapai and Canã would also be excluded from demarcation. In as far as the first criteria of the constitutional definition of traditional lands occupied by indigenous people is small villages, as far as they have permanent inhabitants, located in areas which the resolution seeks to exclude from the borders to be demarcated, then the rest of the criteria is accepted as true.

Even though, absurdly enough, it was sought to exclude titled areas from the borders to be demarcated, it would not be able to adopt the dividing line called for in the 1981 studies. First, because some of these titles affect land within these borders. But, principally, because the size of the area called for to be excluded would be greater than the area titled, including the small villages and other sites mentioned.

Even more ridiculous is the ministerial resolution's intention to exclude the area known as Guanabara hacienda, allegedly belonging to Mr Newton Tavares who was the target of investigations by the Human Defence Council of the Ministry of Justice for violations carried out against indigenous communities inhabiting the area he claims as his. The Minister argued in favour of exclusion, noting the existence of the discriminatory sentence pronounced against Incra concerning this land. However, Incra lost the alluded to action for not having made a motion within the legal time limit. Moreover, the legal process of the discrimination lawsuit does not discuss indigenous possession of the land. Even more serious, the Minister omitted another legal sentence, issued by the Federal Justice in an action sponsored by the Federal Public Ministry, which specifically had the land in question as its object of focus. It concluded by recognising indigenous habitation of the land. Below is a transcription of the conclusion arrived at in the sentence:

> *Documents evidence and the expert finding confirm that the area has traditionally been inhabited by indigenous people.*
>
> *It is of little importance that the opponent has exercised a peaceable and mild possession of the property over the years.'*
>
> ...
>
> *It is of little importance that the opponent, Newton Tavares, has occupied the area for decades. Such an argument does not justify his continuation on lands under Union domain, destined to the permanent usufruct of the indigenous community there.*
>
> ...
>
> *This being affirmed, I JUDGE THE OPPONENT ACCORDINGLY and REINTEGRATE POSSESSION OF THE PROPERTY INTO THE UNION. Funai is ordered to take corresponding measures regarding possession and usufruct of the lands and for the forests found there.*

Add to this that in the area claimed by Mr Newton Tavares there are four small indigenous villages: Jibóia, Santa Cruz, Macaco and Amalia. To recognise this illegal occupation would mean the removal of these small villages, in violation of paragraph 50 of Article 231, prohibiting the removal of indigenous groups from their land, except in limited situations. The same constitutional measure was mentioned in the resolution to reject the government of Roraima's challenge to the area's demarcation.

As can be seen, with the pretext of legitimising Federal Public Authority acts which attributed self-styled rights to property to private occupants of indigenous land, the Minister opted to substitute a reference to borders lacking scientific grounding for an anthropological finding. The reference was adopted without proper knowledge of the existence of indigenous occupation of excluded areas as well as omitting and distorting, more than once, the meaning of legal decisions taken in relation to the area. At a minimum, the long length of the oc-

cupation and titling of these parts of the areas could be argued. As concerns the area already recognised by the resolution itself as belonging to indigenous people, there are older occupations and titles, although just as illegal.

2.5. Regarding state roads

Furthermore, the ministerial resolution seeks to remove the main roads crossing the area from the demarcated area's zones of control. It does not contain, however, a clear indication of which main roads would be included in this process nor the size of the area to be excluded from the indigenous land's borders under the pretext of zones of control.

It is worth remembering that existing precedents concerning transport roads crossing indigenous lands exclusively refer to rivers and roads which link Brazil to neighbouring countries such as in the case of the Negro and Solimões Rivers and the BR-174 (Manaos-Caracas route). In the current case existing main roads are state or municipal. Not one of them falls under federal jurisdiction (except the access road to the city of Normandia). They serve to connect garimpo and indigenous villages with the city of Normandia and the rest of the state. The guarantee of the right to come and go at will is confused with the supposed right to invade.

In the case of the BR-174, the zone to be controlled corresponds to 50 m on each side of the road. If this zoning is put into effect (and even if they decide to reduce the size of the zone), three harmful consequences would affect the well-being of the indigenous territory: (a) the segmentation of the unified area into at least five separate areas due to control zones; (b) the threat that various small villages bordering the roads would remain partially or fully outside of the area demarcated as indigenous; and (c) the possibility that new centres will be established for a non-indigenous population along the roads.

The village of Preguicinha, for example, is situated on a curve on RR-319 and would therefore be totally outside of the area to be demarcated. The same would occur for several houses in the village of Raposa I, one of the most populated. Or, there are even cases such as the village of Xuminá, located 50 metres from RR-202, but whose crops are located along the edge of the road. At least 11 villages would be affected or even threatened with exclusion due to the changes instituted for the already existing roads. In addition to the three already mentioned, Morro, Lilás, Tucumã, Guariba, Olha D'Agua, Cantagalo, Maracaná and Santo Antônio would also be affected. Add to this that the local government's colonial project continues to be advanced and they are planning new roads, some of which are already under construction. This only worsens the negative implications of this decision.

3. Conclusion

In light of the stated arguments and information, the Minister of Justice's Resolution No. 80, if put into effect, would imply a reduction which could exceed the figure of 300,000 ha from the tract identified as indigenous land of Raposa-Serra do Sol, dividing it into five parts, making permanent the existing garimpeiro enclaves in the interior, formally making viable access by new non-indigenous persons and excluding more than 20 small villages from the perimeter(s) to be demarcated. This would also be the case for dozens of other sites including secluded areas and natural resource reserves indispensable for the survival of indigenous people. This being the case, the damaging and unconstitutional character of the ministerial resolution is evident.

The sought after reduction and division of the territory put forth in the form of a ministerial decree on delimitation would legitimise existing invasions and make possible new invasions, deepening current conflicts that have existed in the region for many years. It would further constitute a precedent in which the size of indigenous land is reduced with the result that it could lead to future reductions of indigenous land being or to be identified by Funai.

With rectifying the aforementioned errors as its aim, the Instituto Socioambiental, in accordance with the indigenous peoples who traditionally occupy the area in question, proposes that: (a) Resolution No. 80 not be put into effect; (b) the Minister of Justice issue a decree recognising indigenous occupation of the whole of the area identified by Funai since 1993, which would also determine the area's physical demarcation; and (c) expulsion of outsiders in the area belonging to indigenous people be effected taking into consideration, when necessary, rights to indemnity and the resettlement of the affected non-indigenous occupants.

ECUADOR The Indigenous Challenge

by Carlos Viteri Gualinga

The bell tower struck six that cold morning of 29 January, 1997. The time-worn front doors of the cathedral suddenly closed. Inside, parishioners and the priest, surprised and frightened, looked up in astonishment. A group of 120 people suddenly burst into the more than one hundred year old Catholic place of worship which stands as an architectural relic of a Spanish, colonial past. The intruders were mainly indigenous people from the Andes. They had rucksacks, blankets, banners, drinks, bread, rope and jars of paint with them. The also carried the 'Wypla' (in the colours of the rainbow) as a flag or scarf.

The occupation of the Metropolitan Cathedral in Quito was the beginning of protest activities initiated by the Co-ordinating Body of Social Movements in Ecuador which is a part of CONAIE, the Indigenous National Confederation of Ecuador. The event was associated with the street demonstrations led by the Federation of Ecuadorean Secondary Schools.

Earlier, on 11 January 1997, after signing a declaration called the 'popular mandate' the three largest social organisations in Ecuador: the Co-ordinating Body of Social Movements, the Popular Front and the United Workers' Front, had founded the 'Patriotic Front' while calling for 'civic strike' on 5 February. This declaration's objective was to remove Abdalá Bucaram from the corridors of power and to change the political and economic system in place in Ecuador since 1979, the year marking the return of democracy.

On Sunday, 2 February, the indigenous people, in a surprise move, began to blockade highways, and on Monday, the 3rd. CONAIE announced a national indigenous uprising. This was the beginning of a national mobilisation, and the Patriotic Front quickly announced that the civic strike would last for two days.

'Out with Bucaram' was the cry of the people in popular plebiscites, demonstrations, on banners, cars and T-shirts throughout Ecuador's cities. Two million people mobilised to take part in a protest without precedent in the history of this South American country.

On 5-7 February Ecuadoreans toppled the government of Abdalá Bucaram, considered the most corrupt, by means of a peaceful uprising. On Friday 7 February at 18.00, after 11 intense days of occupation, the members of the Co-ordinating Body left the Metropolitan Cathedral, and the indigenous uprising came to an end.

During the civic strike, the Coordinating body of Social Movements took the initiative and assumed a role usually played by the United Workers' Front (FUT). This was an historic event because for the first time in 30 years, a national strike was led by an organisation other than FUT, whose leaders were closely connected to the Bucaram administration.

CONAIE, an organisation uniting an indigenous population constituting 40% of Ecuador's population, participates in the Co-ordinating Body of Social Movements. But why was it that Ecuador's indigenous people were co-authors of the removal of Bucaram from office?

Since the beginning of his electoral campaign, Abdalá Bucaram, knowing of CONAIE's extensive representation and ability to summon its members, initiated an unwonted flirtation with indigenous people, offering them a ministry should he be elected president. A part of the indigenous leadership from the Ecuadorean Amazon region fell for the bait. Over the last four years they had been in the forefront of indigenous organisations, utilising this space to promote themselves and work towards electoral aspirations not necessarily foreseen by the organisations.

Once elected president, Bucaram executed his plan founded on a policy of control over the organisations, utilising a system of patronage which had as its goal creation of divisions among indigenous people.

In fact, after his failed electoral attempt to the prefecture of the Amazonian province of Napo in the second round of voting, Valerio Grefa, leader of the 'Pachakútik' political movement-as well as the Co-ordinating Body of Indigenous Organisations of the Amazon Basin (COICA)-announced with great pomp and circumstance the signing of a curious 'Accord for Political, Scientific and Technological Co-operation' with presidential candidate Abdalá Bucaram.

This signified a rupture between Amazonian and Andean indigenous candidates. The Amazonian candidates gained the reputation of being government supporters. Later, disagreements spread to and came to affect indigenous organisations. Thus, Pachakútik made its unfortunate debut in the electoral arena by giving in to a clear act of patronage while their activists declared themselves to be 'alternative and redeemers of poor Indians and mestizos'.

Despite the tight secrecy of the terms around the agreement, it was widely known that the agreement involved the creation of an ethnic ministry in addition to several administrative posts.

The electoral offer damaged some Amazonian indigenous organisations including CONFENAIE (the Confederation of Indigenous Nationalities of the Ecuadorean Amazon) who, confronted by the promise of power and its 'advantages', did not hesitate to make use of member organisations' resources, infrastructure and even their activities in order to carry out a hasty electoral campaign lacking objectives, divorced of any social project and obviously guided by personal interests.

At the same time, the candidates maintained their leadership responsibilities. These candidates were, among others, Valerio Grefa (COICA), Héctor Villamil (OPIP) and Edmundo Vargas (CONFENAIE). They utilised, at their convenience, their position as leader or candidate, intentionally obscuring the division between the organisation and the political movement.

Although electoral participation in the Andean Region was equally hasty, it had a different dynamic. The leaders' ideology led to participation with greater autonomy.

Curiously enough, this improvised electoral participation and the positions won, including the ministry for indigenous affairs, were considered an 'exemplary advance' for the indigenous peoples of Ecuador. But, it is clear that offers of political patronage can in no way be considered conquests, and, as concerns elected representatives, in a Congress like the one found in Ecuador, where anachronistic and corrupt politics dominate, the Indians are either assimilated or go unnoticed. Ultimately, they side with the decisions of the majority blocs.

As soon as Bucaram was installed in power, the pre-electoral rupture worsened, spreading to the organisations themselves. The Amazonian organisations, with their reputation as government supporters, openly confronted the organisations of the sierra and CONAIE's leadership. The former defended the establishment of an ethnic ministry, and the latter opposed them. Some accepted the 'good will' of the government while others saw it as 'institutionalisation of racial segregation'.

In the political arena the two Amazonian indigenous Representatives, Villamil and Avilés, joined with the government early on while the Andean representatives, Luis Macas and Miguel Llurco, maintained a critical stance towards the government in accord with CONAIE's leadership.

Once the ministry was created with the first indigenous minister, Rafael Pandam, a *Shuar* dissident from the evangelist ranks who was interim president of CONAIE until he was removed from the position in mid-1996, the government's objective was to manipulate the indigenous congress in order to enable their sympathisers to obtain positions in the leadership and hence control the largest indigenous organisation in Ecuador, CONAIE.

Faced with a strategy seeking to control indigenous organisations, one implemented from the brand-new ethnic ministry itself, the only organisation in the Amazon which publicly dissented was OPIP, the Organisation of Indigenous Peoples from Pastaza. This action won OPIP the honour of being excommunicated for being divisive (?) by other *Quichua* organisations aligned with Grefa-in an internal dispute in the ethnic ministry-and Shuar and *Achuar* organisations aligned with Pandam. The indigenous Amazon became a true madhouse.

Those indigenous peoples considered 'small', such as the *Siona*, *Secoya*, *Cofán* and *Huaornai* peoples, stayed on the sidelines during this political-bureaucratic dispute which became an issue among indigenous organisations thanks, in large part, to the opportunism of Amazonian leaders and politicians.

Bucaram led a new verbal war against CONAIE's leadership, presided over by José María Cabascango. The leadership was branded 'scoundrels'. The confrontation between CONAIE and the government reached its climax in December, 1996, when the government, through the ethnic ministry, openly intervened in CONAIE's fifth Congress, endeavouring to force the election of individuals sympathetic to their ends. CONFENAIE was accused of taking money to achieve this end, and this was never denied.

Subsequently, CONAIE's offices were forcibly taken over by individuals from the military group 'ARUTAM' (composed of Shuar and Quichua indigenous people from the Amazon in response to conflicts with Peru). This military group was led by a leadership primarily made up of Shuar indigenous people and *campesinos* from the coast, sympathetic to the government. Antonio Vargas, a Quichua indigenous person from Pastaza and a member of OPIP, was supposed to preside over this leadership. However, he rejected to do so because of the lack of recognition by Andean indigenous people of the largest regional organisation, ECUARUNARI. At the same time, he sought an outcome based on consensus.

An extraordinary congress held in January of the present year permitted CONAIE to name an officially-approved leadership, one maintaining Antonio Vargas as president. This lessens the possibility that CONAIE will be submissive to Bucaram, while the bitter pill of the decision will have to be swallowed by the group aligned with the ethnic ministry and primarily composed of Amazonian leaders, with the exception of those pointed out.

Bucaram assumed a policy similar to that adopted concerning indigenous peoples with other social organisations (women, unions, teachers and students), journalist guilds and all those who assumed a critical stance towards the regime.

The corruption, abuse of power and farce-turned-state policy provoked the events of 5-7 February, 1997, events which deposed the Bucaram government.

At the present time, Ecuador is preparing for what has been named the 'moral bath'.

All of the deposed government's actions are under investigation. CONAIE has been one of the organisations which has called for the most detailed investigation of all acts of corruption in which indigenous people might be implicated.

In fact, the indigenous Representatives (now expelled from the Pachakútik movement) connected to Bucaram, Héctor Villamil and José Avilés, are among the principal figures accused of corruption for having received money from secret funds in exchange for voting in favour of Bucaram. This affair has meant

that they face imminent dismissal from the national congress, a congress which is prepared to abolish their parliamentary immunity as well as that of other 'honourable' representatives, as they have called themselves.

The accounts that will have to be handed over by all of the former functionaries of the former indigenous ministry, led by Rafael Pandam and Valerio Grefa, can be added to this.

The corruption appears to have contaminated CONFENAIE itself. Their current president, Domingo Tranquila, is under investigation by the Supreme Court of Justice and the State's treasury inspector's office for having received money from the former government for ends yet to be determined.

These events signal even greater cause for worry now that the ex-functionaries of the ethnic ministry, in alliance with the Representatives, and in response to the accusation facing them and the possibility of a judgement against them, are attempting to put together 'public backing' regarding their questionable behaviour. The result is that they end up being harming the same organisations they are indebted to.

On 21 March, 1997, Representative Villamil backed the assault on OPIP's offices in attempt to remove the current leadership, presided over by César Cerda, from office for having publicly withdrawn its support for the Representative and called for his removal from office on grounds of corruption. These actions fit into the context of a regional and national strategy seeking to divide CONFENAIE and CONAIE. The objective is to conceal the corruption from the base communities in order to keep their leadership intact and their personal and group political perspectives alive.

These matters affecting the indigenous people of Ecuador are, ultimately, instructive for the communities, leaders and non-governmental organisations themselves. They provide instruction in discerning the nature of true vs. false collective projects. They show how to stimulate and support processes conceived of in the context of a community project benefiting society and to reject future welfare; to improve communication between local actors, leaders and NGOs; and to eliminate mistaken conceptions of power. Power does not lie in winning seats in congress nor in the imitation of ritual bureaucratic whitewashing, and, least of all, holding some insignificant position in a government. In indigenous societies the true power lies in community participation and action.

This experience should serve once and for all to wipe out corruption. To achieve this, indigenous organisations must re-define concepts of social and political organisation, create efficient monitoring agencies and widen the forum for internal debate. Indigenous strength and knowledge lies in local and family initiatives. The fundamental task is understanding that new concepts of power should recognise that indigenous organisations are not homogenous. In fact, the opposite is true. These organisations are the meeting place of socio-diversity and biodiversity.

The future challenge facing indigenous society is to make indigenous organisations centres of operations for diverse ways of thinking.

Carlos Vitelli Gualinga is a Quichua indigenous person, anthropologist and journalist at the daily newspaper Hoy *in Ecuador*

Wi will continue the debate on the indigenous movement in Ecuador in the next number of Indigenous Affairs with an article on Valerio Grefa, the former president of COICA

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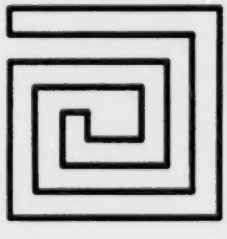

NEW IWGIA DOCUMENT IN SPANISH - No.20 - USD 12
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Indigenous Peoples and Conservation:

Principles for partnership between WWF and indigenous peoples' organisations in conserving biodiversity within indigenous peoples' lands and territories, and in promoting sustainable use of natural resources

Preamble

1. Most of the remaining significant areas of high natural value on earth are inhabited by indigenous peoples. This testifies to the efficacy of indigenous resource management systems. Indigenous peoples and conservation organisations should be natural allies in the struggle to conserve both a healthy natural world and healthy human societies. Regrettably, the goals of conserving biodiversity and protecting and securing indigenous cultures and livelihoods have sometimes been perceived as contradictory rather than mutually reinforcing.

2. The principles for partnership, outlined in this statement, arise from WWF's mission to conserve biodiversity, combined with a recognition that indigenous peoples have often been stewards and protectors of nature. Their knowledge, social, and livelihood systems - their cultures - are closely attuned to the natural laws operating in local ecosystems. Unfortunately, such nature-attuned cultures have become highly vulnerable to destructive forces related to unsustainable use of resources, population expansion and the global economy.

3. WWF recognises that industrialised societies bear a heavy responsibility for the creation of these destructive forces. WWF believes that environmental and other non-governmental organisations, together with other institutions worldwide, should adopt strategies with indigenous peoples, both to correct the national and international political, economic, social and legal imbalances giving rise to these destructive forces, and to address their local effects. The following principles aim to provide guidance in formulating and implementing such strategies.

I. Rights and Interests of Indigenous Peoples

4. WWF acknowledges that without recognition of the rights of indigenous peoples no constructive agreements can be drawn up between conservation organisations and indigenous peoples' groups.

5. Since indigenous peoples are often discriminated against and politically marginalised, WWF is committed to make special efforts to respect, protect, and comply with their basic human rights and customary as well as resource rights, in the context of conservation initiatives. This includes, but is not limited to, those set out in national and international law, as well as in other international instruments.

In particular, WWF fully endorses the provisions about indigenous peoples contained in the following international instruments:
- *Agenda 21*
- Convention on Biological Diversity
- *ILO Convention 169 (Convention Concerning Indigenous and Tribal Peoples in Independent Countries)*[2]
- *Draft UN Declaration on the Rights of Indigenous Peoples*[3]

6. WWF appreciates the enormous contributions indigenous peoples have made to the maintenance of many of the earth's most fragile ecosystems. It recognises the importance of indigenous resource rights and knowledge for the conservation of these areas in the future.

7. WWF recognises indigenous peoples as rightful architects of and partners for conservation and development strategies that affect their territories.

8. WWF recognises that indigenous peoples have the right to the lands, territories, and resources that they have traditionally owned or otherwise occupied or used, and that those rights must be recognised and effectively protected, as laid out in ILO Convention 169.

9. WWF recognises the right of indigenous peoples to exert control over their

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lands, territories and resources, and establish on them the management and governance systems that best suit their cultures and social needs, whilst respecting national sovereignty and conforming to national conservation and development objectives.

10. WWF recognises, respects and promotes the collective rights of indigenous peoples to maintain and enjoy their cultural and intellectual heritage.

11. Consistent with Article 7 of ILO Convention 169, WWF recognises indigenous peoples' rights to decide on issues such as technologies and management systems to be used on their lands, and supports their application insofar as they are environmentally sustainable and contribute to the conservation of nature.

12. WWF recognises that indigenous peoples have the right to determine priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting those lands, territories, and resources.

13. WWF recognises and supports the rights of indigenous peoples to improve the quality of their lives, and to benefit directly and equitably from the conservation and sustainable use of natural resources within their territories.

14. In instances where multiple local groups claim rights to resources in indigenous territories, WWF recognises the primary rights of indigenous peoples based on historical claims and long-term presence, with due regard for the rights and welfare of other legitimate stakeholders.

15. WWF respects the rights of indigenous peoples to enjoy an equitable share in any economic or other benefits realised from their intellectual property and traditional knowledge, building on the provisions of the Convention on Biological Diversity.

16. In conformity with the provisions in ILO Convention 169, WWF recognises the right of indigenous peoples not to be removed from the territories they occupy. Where their relocation is considered necessary as an exceptional measure, it shall take place only with their free, prior informed consent.

II. Conservation Objectives

17. At the heart of WWF's work is the belief that the earth's natural systems, resources, and life forms should be conserved for their intrinsic value and for the benefit of future generations.

WWF bases all of its conservation work on the principles contained in its Mission statement.
In addition, WWF fully endorses the provisions about biodiversity conservation and sustainable development contained in the following documents:
- Agenda 21
- Convention on Biological Diversity
- Convention on Trade in Endangered Species of Flora and Fauna (CITES)
- Convention on Wetlands of International Importance (Ramsar Convention)
- Caring for the Earth

18. WWF encourages and supports ecologically sound development activities, particularly those that link conservation and human needs. WWF may choose not to support, and may actively oppose, activities it judges unsustainable from the standpoint of species or ecosystems, or which are inconsistent with WWF policies on endangered or threatened species or with international agreements protecting wildlife and other natural resources, even if those activities are carried out by indigenous communities.

19. WWF seeks out partnerships with local communities, grass roots groups, non-governmental organisations, governments, corporations, international funding institutions, and other groups, including indigenous communities and indigenous peoples' organisations, who share WWF's commitment to the following conservation objectives:
i) Conservation of biodiversity: to conserve biological diversity at the genetic, species and ecosystem levels; to improve knowledge and understanding of species and ecosystems; to protect endangered species of animals and plants; to maintain ecosystem functions; to maintain protected areas and improve their management.

ii) Sustainable use of resources: to ensure that any harvest of natural resources is sustainable; to support community management of renewable resources according to subsistence and cultural needs; to use recycling methods where appropriate; to use resource-efficient methods and technologies; and to substitute non-renewable with renewable resources wherever possible.

iii) Pollution prevention: to prevent, wherever possible, discharges of environmentally damaging substances, and ensure that products and processes are non-polluting.

III. Principles of Partnership

20. The following principles will govern: (i) WWF conservation activities within indigenous peoples' lands and territories; (ii) WWF partnerships with indigenous peoples' organisations; (iii) WWF partnerships with other organisations whose activities may impact upon indigenous peoples.

21. Whenever it promotes conservation activities affecting indigenous peoples' lands and territories, WWF will encourage governments to 'take steps as necessary ... to guarantee effective protection of [indigenous peoples'] rights of ownership and possession' of those lands and territories, as determined by ILO Convention 169 (Art. 14).

22. Prior to initiating conservation activities in an area, WWF will exercise due diligence to:
- seek out information about the historic claims and current exercise of customary rights of indigenous peoples in that area; and
- inform itself about relevant constitutional provisions, legislation and administrative practices affecting such rights and claims in the national context.

23. When WWF conservation activities impinge on areas where historic claims and/or current exercise of customary resource rights of indigenous peoples are present, WWF will assume an obligation to:

- identify, seek out and consult with legitimate representatives of relevant indigenous peoples' organisations at the earliest stages of programme development; and
- provide fora for consultation between WWF and affected peoples, so that information can be shared on an ongoing basis, and problems, grievances and disputes related to the partnership can be resolved in a timely manner.

In addition, consistent with the relevance and significance of the proposed activities to the achievement of conservation objectives, WWF will be ready to:
- assist indigenous peoples' organisations in the design, implementation, monitoring and evaluation of conservation activities, and to invest in strengthening such organisations and in developing relevant human resources in the respective indigenous communities; and
- assist them in gaining access to other sources of technical and financial support to advance those development objectives that fall outside WWF's mission.

24. In instances where states or other stakeholders, including long-term residents, contest the rights of indigenous peoples, WWF will be ready to assist indigenous peoples to protect, through legally accepted mechanisms, their natural resource base, consistent with the achievement of WWF's Mission and subject to availability of resources.

25. Where the resource rights of indigenous peoples are challenged by national governments, private corporations and/or other groups, and the defence of those rights are deemed relevant and significant to the achievement of its Mission, WWF will, in coordination and consultation with indigenous peoples' organisations and subject to availability of resources:
- seek out and/or invest in the development of legitimate and transparent mechanisms to resolve conflicts at local, regional, national and international levels, as appropriate;
- seek to ensure that the primary rights and interests of indigenous peoples are well represented in such fora, including investment to inform and prepare indigenous peoples' representatives to take part in negotiations.

26. Consistent with WWF conservation priorities, WWF will promote and advocate for the implementation of Article 7 of ILO Convention 169: 'Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit'.

27. WWF will not promote or support, and may actively oppose, interventions which have not received the prior free and informed consent of affected indigenous communities, and/or would adversely impact - directly or indirectly - on the environment of indigenous peoples' territories and/or would affect their rights. This includes:
- economic or other development activities;
- natural resources exploitation;
- commercially oriented or academic research;
- resettlement of indigenous communities;
- creation of protected areas or imposition of restrictions on subsistence resource use;
- colonisation within indigenous territories.

28. With respect to the existing knowledge of indigenous communities, prior to starting work in a particular area, WWF will establish agreements with the indigenous organisations representing local communities, to ensure that they are able to fully participate in decisions about the use of knowledge acquired in or about the area they inhabit, and equitably benefit from it. These agreements will explicitly determine the ways and conditions under which WWF will be allowed to use such knowledge.

29. In the context of its partnerships with organisations other than those specifically representing the interests of indigenous peoples (including national governments, donor agencies, private corporations, and non-governmental organisations), WWF will:
- ensure that such partnerships do not undermine, and if possible serve to actively promote, the basic human rights and customary resource rights of indigenous peoples;
- ensure that all relevant information developed through such partnerships and accessible to WWF, is shared with the appropriate representatives of indigenous peoples;
- ensure that any national or international advocacy or fundraising activity related to indigenous peoples will be undertaken in consultation with representatives of relevant indigenous peoples' organisations.

30. WWF recognises that the resolution of problems related to indigenous peoples may require action in international fora, in addition to national interventions. In pursuit of the foregoing principles, and in order to enhance its own understanding of indigenous peoples' issues, and when consistent and relevant to its conservation objectives, WWF will:
- actively seek inclusion and engagement in relevant international as well as national fora.
- initiate an ongoing process of dialogue with indigenous peoples' groups on the principles for partnership proposed herein.

31. WWF commits itself to promoting nationally and internationally, whenever possible and appropriate, the implementation of all of these principles in the context of conservation actions within indigenous peoples' lands and territories.

32. WWF is committed to upholding the above principles, and the spirit that informs them, to the best of its abilities.

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[1] In this position statement, as well as in other institutional documents, WWF refers to indigenous and tribal peoples using the definition of ILO Convention 169. Unless explicitly said otherwise, the term 'indigenous peoples' includes both concepts, 'indigenous' and 'tribal'.

[2] Adopted by the General Conference of the International Labour Organisation on 27 June 1989.

[3] As adopted by the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the UN Commission on Human Rights, at its eleventh session (UN document E/CN.4/Sub.2/1993/29, Annex I). ❑

Notes for a proposal on indigenous peoples and protected areas

By Gonzalo Oviedo Carrillo
(WWF International)

Summary

In these notes some ideas are proposed about how to reconcile indigenous peoples' interests and protected area objectives. The central concept is that under agreed national standards and legal frameworks for biodiversity conservation and protected areas management, indigenous peoples should be recognised as the legitimate owners and managers of protected areas existing within their territories; and that this model has the potential to strengthen the role of indigenous peoples in conservation, thus leading to a more effective management of protected areas for conserving biodiversity and resources. Several practical steps are suggested in this direction.

WWF and Indigenous Peoples

1. In May 1996 WWF adopted a Statement of Principles on Indigenous Peoples and Conservation as a result of a process of consultation within the organisation and with indigenous peoples organisations. The ideas in this paper are based on this Statement and on WWF's exchanges with several indigenous organisations, in the search for a solution to the long list of conflicts between indigenous peoples and protected areas worldwide

2. For WWF, recognition of indigenous peoples' rights to lands and resources is the basis to ensure their effective contribution to the conservation of biological diversity. It is also a precondition for appropriately addressing the issue of protected areas in indigenous peoples' territories.

3. Two other complementary, fundamental rights of indigenous peoples have to be acknowledged in developing and implementing the CBD, particularly in developing and implementing policies on protected areas in indigenous peoples' territories: the right they have to determine development priorities for the territories they traditionally occupy or use, and their free, prior informed consent for any conservation or development action to take place in those territories.

What do indigenous peoples want regarding protected areas?

4. It has been said sometimes that indigenous peoples are opposed to protected areas because these have deeply affected their fundamental rights. This statement can be true in specific circumstances where no solution has been found or envisaged to existing conflicts. But indigenous peoples are apparently not, in general, opposed to protected areas; what they want is fundamental changes in the way protected areas are designated and managed. Moreover, in some cases indigenous peoples see protected areas as a real option to help protect their lands and resources from encroachment, unsustainable development projects, and other threats to their lives, cultures and environment.[1]

5. Indigenous peoples basically want to ensure that protected areas:
- do not deprive them from their land and resource rights;
-recognise and support their right to self-determination, which includes the concepts of territorial control and empowerment of traditional institutions;
- recognise and support their right to self-development;
- are established on basis of their free, prior informed consent;
-incorporate traditional conservation and use patterns, and strengthen local institutions;
- provide tangible benefits to them;
-effectively protect lands, resources and the people themselves, from external threats.

6. The above-mentioned claims of indigenous peoples do not contradict the objectives of protected areas but demand fundamental changes in the existing policies on the matter, because the problem currently is that in most countries protected area policies do not allow for the inclusion of these types of conditions for designation and management of protected areas within indigenous peoples' territories.

The IUCN system of categories of protected areas and indigenous peoples

7. The existing system of international categories for protected area management proposed by IUCN in 1994 does not address these specific claims and views of indigenous peoples and the particular characteristics that protected areas should have in their territories.

8. An International Conference on Indigenous Peoples, Environment and Development held in Zurich in 1995, concluded that 'none of the categories (of the IUCN system) are defined to guarantee the recognition of indigenous peoples' rights to self-determination and self-development'. The Conference recommended that 'at the next IUCN General Assembly a new category based on the principle of self-determination should be promoted'.

9. Hence, this is one option that has been suggested: to include a Category VII called Indigenous Territory. The International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, for example, stated in its Charter (Article 43) that 'environmental policies and legisla-

tion should recognise indigenous territories as effective 'protected areas', and give priority to their legal establishment as indigenous territories'. In its submission to the CBD, the Alliance warned that, until the notion of 'indigenous territory' is officially considered as a protected area, indigenous peoples will be very cautious about the provision contained in Article 8 (a) of the CBD.

10. However, a closer examination of categories V and VI of the IUCN system shows that although currently insufficient in their actual wording, they could offer room to develop the concept of indigenous territory, either as a protected landscape/seascape or as a multiple use area. The condition for this to happen, is that any further development of the concept of indigenous territory as part of categories V and VI needs to be based on the conditions and demands expressed in paragraph 5.

11. Whatever the selected option is at the international level, one conclusion is clear: countries all over the world need to specially include at the national level a category of protected areas based on the concept of *protected indigenous territory*.

12. In accordance with this idea the objectives of this paper are:
-to suggest a number of steps that governments could take to implement new policies on *protected indigenous territories*, either as part of categories V or VI or as a result of the application of an entirely new category; and
-to explore the option to include a specific sub-category for *protected landscapes/seascapes in indigenous territories* and *managed resource protected areas in indigenous territories* in existing categories V and VI.

13. There is a great diversity of situations with regard to this issue and the ideas presented here are only very general. Each national and even local situation will require the formulation of specific strategies, itineraries and tools.

Possible steps for the establishment of protected indigenous territories

14. It seems to be necessary first to identify in which cases an indigenous territory can become a protected area because it appears that not all indigenous lands can be considered as such.

The IV World Congress on National Parks and Protected Areas (Caracas, 1992) adopted this definition of protected area:

> *'An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity and of natural and associated cultural resources, and managed through legal or other effective means'*
> *(IUCN, Guidelines for Protected Area Management Categories, 1994:7).*

15. The application of this definition shows that indigenous territories can become a protected area when:
a) a major objective of this management is protection and maintenance of biological and associated natural and cultural resources;
b) it has been legally designated and/or is managed by effective means.

16. In addition to these requirements, protected indigenous territories should be:
c) based on legal recognition of collective rights of indigenous communities living on them to the lands and resources they have traditionally owned, occupied or otherwise used;
d) designated by legal means on the basis of an agreement between the representatives of the indigenous people and the local, provincial, regional, national or federal government, as appropriate;[3] or established by other non-legislative, 'effective' measures;[4]
e) managed totally or partially by the respective indigenous people on the basis of a management agreement with the respective governmental authorities and of a jointly devised management plan.[4]

17. The establishment of new protected areas in indigenous peoples' territories should follow appropriate steps so as to meet these conditions, in short, these include:
- identify the lands to be protected jointly with the peoples concerned or at their request;
- adopt measures for legal recognition of land and resource rights where this has not been done beforehand, or at least initiate a formal process in this direction;
- establish an agreement for designation and management involving the relevant governmental agencies and indigenous organisations concerned;
- proceed to legal designation (or non-legal, but through other equally effective means);
- develop a management plan between the respective governmental agencies and the peoples concerned with the support and participation of other parties as necessary;
- adopt the respective technical, institutional, financial and other measures to ensure proper implementation of the management plan.

18. In relation to protected areas already established on indigenous territories, similar steps should be taken to solve the existing conflicts and comply with indigenous peoples' claims, but there would be some specificities depending on whether the areas under protection overlap totally or partially with indigenous territories.

19. In the case of total overlap between a protected area and an indigenous territory some of the steps could be:
a) to legally recognise collective rights to lands and resources in the entire area, preceded by a conflict resolution process whenever necessary or at least initiate a formal process in this direction;
b) to reclassify the area as a protected indigenous territory in accordance with guidelines to be developed within the framework of the international system of protected area categories and with the relevant national policies;
c) to establish a management agreement between the concerned people and park authorities aimed at transferring control and management powers to the respective indigenous institutions;
d) to identify the mechanisms for monitoring and reporting on the implementation of the management plan to the respective national authorities, the country and the international community;

The Amazon rainforest continues to be deforested at an ever increasing rate. Photo: Alejandro Parellada

e) to ensure that the respective authorities and the peoples concerned jointly prepare a new management plan;
f) to identify the local indigenous institutions involved in the protected area management, their respective roles, their capacity building needs and the way they relate to the broader institutional structure for protected areas
management in the country;
g) in case the process leads to major changes in the protected area (which may include definition of new elements like borders, category, objectives, name, etc.), the area could be re-designated through legal means.

20. In the case of partial overlap between the designated protected area and the indigenous territory, the following steps could replace/complement the steps above when appropriate:
b) a new zonation could be put in place, as part of the preparation of a joint management plan. The new zonation should address the indigenous communities' needs, interests, and objectives;
c) a co-management agreement could be established to ensure consistency among the roles of all the different actors in the protected area;
f) to reform the institutional structure of the protected area so as to include relevant indigenous institutions on the board in charge of direction and management of the entire area and/or the protected areas of the region.

Protected indigenous territories in categories V and VI

21. The proposal here, as mentioned before, is to explore the option to develop specific sub-categories in categories V and VI for *protected indigenous territories*. Only a general concept for each category is offered here, and further work is necessary to develop it in detail.

22. Category V is Protected Landscape/Seascape. It stresses the value of interactions between people and nature over time, a relevant feature in indigenous territories, and includes important specific objectives related to conserving cultural heritage. It also aims at bringing 'benefits to, and (contributing) to the welfare of, the local community through the provision of natural products... and services'. The area allows for private ownership which gives room to recognising indigenous land rights.

This category could be applied to protecting indigenous territories with a particular scenic value (therefore where tourism, recreation and education are or could be important objectives for public use), either natural (mountains, shores, islands, etc.) or cultural (remains of ancient civilisations).

23. Category VI is Managed Resource Protected Area. It aims mainly at ensuring the sustainable use of natural ecosys-

tems and embraces the concept of *multiple use area*. It also allows for communal ownership of the land and specifically considers the option of management by local institutions or co-management by public bodies and local communities.

This category could be applied to protecting indigenous territories where 'at least two-thirds' of the area is in a 'natural condition', as required by the definition of Category VI. Here, the concept of 'natural condition' has to be interpreted basically as 'non-converted natural ecosystems', not as 'untouched ecosystems'. In many indigenous territories, for example those in tropical forest regions, traditional use of natural resources by indigenous peoples has not led to conversion or destruction of natural ecosystems, even if it has implied interventions on nature. The basis for the designation of a protected area under Category VI would be then the desire of the people involved to maintain at least two-thirds of their land under regulated use which does not lead to conversion or destruction of natural ecosystems - whereas the rest of the land may include modified ecosystems for human use including traditional agricultural lands and small settlements.

24. What is interesting to note is that although neither of these two categories specifically includes the notion of indigenous territory, both offer room to develop it, without contradicting any of the objectives and main elements of the categories.

A potential role for the cbd

25. The problem, as stated initially, is that the existing legal and political framework in most countries clashes with the notion of a protected indigenous territory. To proceed in the suggested direction countries need first to reform their legal and political instruments for protected areas. The most important reforms that are needed relate to communal ownership of lands within protected areas and control and management responsibilities. In addition, new legal and policy instruments have to include incentive/disincentive measures, benefit sharing provisions and tools for capacity building. Last, but not least, a number of new technical solutions and instruments have to be devised for implementation.

26. To advance this work internationally the CBD could present a series of recommendations to party countries in order to facilitate the development and establishment of policy and legislative tools oriented in this direction. Such recommendations could be based on an analysis of:

a) The ways protected areas within indigenous territories, managed or co-managed by indigenous communities under agreed standards and methods can contribute to *in situ* conservation of biodiversity;

b) The ways in which indigenous rights and interests can be matched with conservation objectives in such areas, in terms of aspects like policing powers and control over lands, management methods, ownership regulations, benefit sharing, etc.

c) The measures that some countries have already taken or are planning to take to reconcile conservation objectives with indigenous interests and rights.

27. The CBD could also request the support of IUCN's CNPPA to develop, in consultation with indigenous organisations, a proposal for an international policy framework on the matter, based on the inclusion of the notion of *protected indigenous territories* in the international system of protected areas through either a new category or a sub-category of categories V and VI.

28. In developing such analyses and recommendations the CBD bodies should ensure that all the necessary consultations are made and that indigenous peoples organisations in particular have the opportunity to fully and openly express their wishes, concerns and proposals in relation to protected areas.

Notes

[1] This summary is based on several cases of claims and proposals of indigenous groups on protected areas established in their lands and on statements from organisations like the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, COICA (Coordinating Body of Indigenous Organisations of the Amazonian Basin), and the Maori Congress of New Zealand.

[2] This would be the expresseion of the principle of free, prior informed consent. If there were no agreement, there would be no designation. It also relates to the principle of self-development. The Australian Agency for Nature Conservation has developed a new model in agreement with indigenous peoples by which protected areas are self-declared by them as an expression of the principle of self-determination. Vid. *Self-declaration for self-determination. Indigenous protected areas: A new approach to the use of IUCN Categories V and VI in Australia*, by Peter Bridgewater and Ian Cresswell, GBF, Montreal, 1996.

[3] In this case, however, some sort of official recognition would be also needed.

[4] This would be part of the recognition of the right to self-determination, particularly with regard to control and management powers, and the strengthening of local institutions in charge of exerting them.

INTERGOVERNMENTAL PANEL ON FORESTS

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All peoples are descendants of the forest. When the fores dies we die. We are given responsibility to maintain balance within the natural world. When any part is destroyed, all balance is cast into chaos. When the last tree is gone, and the last river is dead, then people will learn that we cannot eat gold and silver. To nurture the land is our obligation to our ancestors, who passed this to us for future generations.

PREAMBLE

We, participants of the International Meeting of Indigenous Peoples and Other Forest- Dependent Peoples on the Management, Conservation and Sustainable Development of All Types or Forests,

Recognising that Indigenous Peoples enjoy the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

Recognising that forests are the homes of many Indigenous Peoples and other forest- dependent peoples and are fundamental to their survival as distinct peoples, forming the basis for their livelihoods, cultures and spirituality;

Recognising that nearly all forests are inhabited;

Recognising that the maintenance of cultural diversity and the welfare of Indigenous Peoples and fores. dependent peoples is a fundamental aspect of sustainable forest management;

Recognising that secure and long-term gua-rantees to lands and territories is essential to sustainable forest management;

Recognising that human rights, sustainable forest management and peace are interdependent and indivisible;

Recognising, therefore, that the interests of Indigenous Peoples and other forest- dependent peoples should have priority in any decisions about forests;

Therefore this meeting calls upon Governments, Intergovernmental Organisations, Non-Governmental Organisations and Major Groups involved in implementing Agenda 21) to support the following principles, conclusions and proposals for action:

GENERAL PRINCIPLES

That the rights, welfare, viewpoints and interests of Indigenous Peoples and other fores-dependent peoples should be central to all decision-making about forests at local, national, regional and international levels;

That their rights to their lands, territories, forests and other natural resources should be recognised, secured, respected and protected;

That they should have full control over the management, use and conservation of these resources;

That the representative institutions of Indigenous Peoples and other forest-dependent peoples should be fully recognised and respected;

That Indigenous Peoples and other forest dependent peoples need strong and autonomous organisations and support for the consolidation of indigenous systems and cultural institutions;

That new mechanisms should be established to ensure the equal participation of Indigenous Peoples and other forest-dependent peoples in decision making on forests at all levels;

That Indigenous Peoples and other forest peoples constitute an important cross-cutting theme in the forest agenda, affecting many other issues;

The United Nations bodies, when dealing with Indigenous issues, should not narrowly work on sectoral themes but continue to engage in dialogue to enhance mutually enriching discussions, and to strengthen co-ordination;

That there should be wholehearted support for the current Draft United Nations Declaration on the Rights of Indigenous Peoples being discussed by the United Nations Commission on Human Rights, and its relevance for the goals of sustainable development and sustainable forest management;

That these principles shall be applied in the management, conservation and sustainable development of all types of forests.

NATIONAL FOREST AND LAND USE PROGRAMMES:

National Forest And Land Use Programmes should promote broad participation and be decentralised to ensure a wide involvement in implementation;

Indigenous Peoples and other forest-dependent peoples must play an integral part in national forest and land use planning;

Rights to and respect for Indigenous Peoples and other forest-dependent peoples' lands and territories and tenure systems must guaranteed in forms appropriate to them;

Within the framework of national and regional planning, decisions on land use must be devolved to the local level so that Indigenous Peoples and other fores-dependent peoples can assert effective customary systems of sustainable forest management;

Indigenous Peoples and other forest-dependent peoples'rights to rotational farming, hunting, gathering, fishing, grazing and other land use should be respected and secured within national land use and forest programmes;

All forest and land use planning activities that affect Indigenous Peoples and other forest-dependent peoples must fully respect their customary systems of dispute settlement;

National land use and forest programmes should uphold international standards on the rights of indigenous peoples, with due consideration for the wishes of the Peoples concerned, including appropriate national legislation and implementation.

National governments are urged to respect indigenous communities and cultures across national frontiers and not continue with practices which divide Indigenous Peoples.

Proposals for Action

1. The IPF should acknowledge the importance of indigenous land use and resource rights, as well as customary law and indigenous legal systems, as inherently related to the forest issue.
2. To establish participatory mechanisms for national forest and land use planning which include the following elements:

Equal access and fully participation by Indigenous Peoples and other forest dependent peoples in national land use planning and forest programmes, at all stages of planning, implementation, monitoring, assessment and evaluation.

Initiatives, programmes and projects must take into account customary land use and tenure systems of Indigenous and other forest dependent peoples, including rotational farming, hunting, gathering, fishing, grazing and others.

No activities must take place on Indigenous Peoples' territories without their full and informed consent through their representative institutions, including the power of veto

No activities for resource utilisation or conservation, including the establishment of protected areas, must be initiated on lands of Indigenous Peoples and other forest dependent peoples without security and full respect for their territorial rights.

Indigenous Peoples and other forest dependent peoples must be included in the decision making process at all levels in all areas which affect them, including policy decisions of international development agencies, multilateral development banks and all trans-national corporations.

Any benefits from territories of Indigenous Peoples and other forest dependent Peoples must primarily be for their own local use and in accordance with principles of benefit-sharing established by them.

Underlying Causes of Deforestation and Forest Degradation:

Deforestation and forest degradation is exacerbated by a lack of understanding of the holistic worldviews and ways of life of Indigenous Peoples and other forest dependent peoples;

The underlying causes of deforestation and forest degradation which urgently need to be addressed include the following:

The failure of governments and other institutions to recognise and respect the rights of Indigenous Peoples and other forest dependent Peoples to their territorial lands, forests and other resources;

The increasing problem of landlessness among impoverished peasants who are denied access to land outside forests areas due to inequitable land ownership patterns, and who also have no alternate economic opportunities;

Government policies and those of private sector industry are geared to exploit forests and mineral resources to the fullest extent for purely economic gain. These policies are often incompatible with other existing forest conservation policies. Such policies include substituting forests with industrial tree plantation for the pulp industry; oil and gas exploration by transnational corporations; uncontrolled mining operations and establishing nuclear waste storage sites on indigenous territories.

Proposals for Action

1. Genuine participatory mechanisms need to be developed which allow Indigenous Peoples and other forest dependent peoples a decisive voice in evaluations of deforestation processes and the evolution of appropriate policy responses.
2. Governments and other institutions are urged to pursue measures which can reduce pressure from industrial societies on forests by, inter alia, reducing consumption, reusing, recycling and substituting forests products as appropriate.

Traditional Forest Related Knowledge:

Traditional forest-related knowledge is essential to sustainable forest management practices;

Traditional forest-related Knowledge is intimately bound up with Indigenous Peoples and other forest dependent peoples' ownership and control of their lands and territories and their continued management, use and conservation of all types of forests.

The contributions of women in the development, promotion and protection of indigenous knowledge must be acknowledge and supported;

The ownership of Indigenous Peoples and other forest-dependent peoples of their forest related traditional knowledge and contemporary innovations should be recognised and secured;

Traditional knowledge must remain alive, cultures must continue to develop, and indigenous contemporary knowledge and technologies must also be respected;

Use of this knowledge should not be made without the prior informed consent of the Peoples concerned;

Indigenous Peoples oppose the patenting of life forms, sacred plants and the Human Genome Diversity Project and the imposition of private intellectual property rights on collective indigenous knowledge and resources.

Proposal for Action

1. New legislative frameworks and sui generis systems that recognise and effectively protect the cultural heritage and tradi-

Photo: IWGIA

tional forest related knowledge of Indigenous Peoples and other forest dependent peoples must be established. These must be based on customary law and governance structures.

2. To note and support the actions and recommendations agreed by the Conference of Parties to the Convention on Biological Diversity during its third meeting relating to the implementation of Article 8j and other related areas.

3. To establish in the Amazon region a world university of Indigenous Peoples with the support of the international community. This University shall function under the direct administration of the Indigenous Peoples with the purpose to study, promote and protect Indigenous cultures, cosmo-vision and traditional knowledge. It shall be open to all peoples and cultures.

4. IPF4 should support the Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples contained in the Final Report of the Special Rapporteur, Mrs. Erica Irene Daes (E/CN.4/Sub.2/1995/26) covering definitions, transmission of heritage, recovery and restitution of heritage, national programmes and legislation, researchers and scholarly institutions, business and industry, artists, writers and performers, public information and education and international organisations.

5. To undertake a series of expert meetings under the auspices of the CSD on sustainable development and territorial management and the related issues of partnerships, agreements and legal framework for cultural heritage protection.

6. National governments and the international community are urged to support education programmes which promote the sustainable forest management practices of Indigenous Peoples and other fores-dependent Peoples.

7. To implement broad technical capacity-building programmes on sustainable land use and forest management, giving special attention to settlers.

8. To support information exchange programmes between Indigenous Peoples and local communities on issues of intellectual and cultural rights, knowledge, innovations and practices.

9. To develop association agreements on sustainable forest management between Indigenous Peoples, other forest-dependent Peoples and groups living in the forest.

10. To establish an information centre and dissemination system to enable Indigenous Peoples and other forest dependent peoples to access all relevant information. Efforts should be made to make this information freely and widely available in languages and forms accessible to Indigenous Peoples.

FINANCIAL ASSISTANCE AND TECHNOLOGY TRANSFER:

Proposals for Action

1. Financial assistance and mechanise must be publicly accountable, transparent and unconditional. The IPF must also create possibilities for Indigenous Peoples and other forest dependent Peoples to design their own financial mechanisms.

2. Indigenous Peoples and forest dependent peoples should directly access and receive technical assistance and support upon their own request. When such assistance is proposed by government agencies and other bodies it should only proceed with the approval of the Indigenous Peoples and forest dependent peoples.

3. Donor criteria should go beyond project financing, and also support the capacity- and institution-building of Indigenous Peoples and other forest-dependent Peoples.

4. To set up an independent fund to enable Indigenous Peoples and other forest dependent peoples to enjoy full participation in the international forest policy debate. The funding mechanism must ensure independent, fair and equitable participation from all regions and all types of forests. Indigenous Peoples must be part of the administration of this fund.

CRITERIA AND INDICATORS FOR SUSTAINABLE FOREST MANAGEMENT:

All criteria and indicators for sustainable forest management and certification principles must secure the spiritual, cultural, social and material well-being of Indigenous Peoples and other forest-dependent peoples.

Proposal for Action

1. Indigenous Peoples and other forest-dependent peoples should be supported to carry out their own inventory of forest resources, and to define locally appropriate criteria and indicators for sustainable forest management.

INTERNATIONAL INSTRUMENTS AND MECHANISMS:

All future international instruments and mechanisms dealing with forests should involve Indigenous Peoples and other forest dependent peoples in all stages of decision-making as equal partners.

The key areas that need to be addressed are participation and representation at the international level, access to relevant information and funding. In order to effectively participate in decision making processes, governments and other institutions must provide necessary support to help strengthen organisations of Indigenous Peoples and other forest dependent peoples.

Proposals for Action:

1. Indigenous Peoples and other forest dependent peoples must continue to have improved representation at all upcoming UN forums in the immediate future including IPF4, CSD 5 and the Special Session of the UN General Assembly in June 1997. All these meetings should register our participation as 'Indigenous Peoples', a recognised Major Group in the implementation of Agenda 21.

2. Full support should be given to establishing a UN Permanent Forum for Indigenous Peoples during the UN Decade for Indigenous Peoples which will draw together human rights, environment and development issues.

3. Agenda 21 and the Forest Principles should be interpreted to harmonise with the UN Draft Declaration on the Rights of Indigenous Peoples, with particular emphasis on the use of the term 'peoples' in its documentation.

ACTION COMMITMENTS

The participants committed themselves to undertake concrete plan of action including the following:

- Identification of concrete participatory mechanisms for Indigenous Peoples and other forest dependent peoples to ensure full and equal participation in any post IPF forest processes and also the Convention on Biological Diversity;
- Creation of a global, regional and local network for the flow of appropriate information and proposals for action;
- Plan and seek support for a programme of action to facilitate Indigenous Peoples and forest dependent peoples;
- Identification of locally appropriate criteria and indicators for sustainable forest management;
- Preparation of proposals for the inclusion of traditional forest-related knowledge by Indigenous Peoples and other forest-dependent peoples into tertiary education and professional training programmes within all nations;
- Prepare proposals at the national level for the education of all peoples, especially the young people about forest destruction and degradation and the role of Indigenous Peoples and forest dependent peoples in managing and protecting our forest resources;
- Prepare proposals for regional meetings between Indigenous Peoples and other forest dependent peoples and UN-agencies and other bodies to explore the implications of international instruments and agreements at the national and local level;
- National Indigenous Peoples organisations should consider forming alliances with universities to create national forums for research, study and action.

CONCLUSIONS

The meeting requests the IPF to incorporate these principles and proposals for action in the final IPF Report during its fourth session.

The meeting also requested that the Leticia Declaration and Proposals for Action also be considered by the UN Commission on Sustainable Development during the 5th Session, the General Assembly Special Session and all other international forest policy deliberations.

The meeting requested the broadest dissemination of the Leticia Declaration and Proposals for Action to all relevant bodies.

A full Co-Chairpersons' Report on the Leticia Meeting will be made available to all participants of IPF4.

All relevant documents are also available online electronically at: ia.indig-tribal (conference documentation in Greennet), or http://www.gn.apc.org/iaip/leticia, and from :

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PAPUA NEW GUINEA

The environmental impact of Ok Tedi mine

by Patricia K. Townsend and William H.

The Ok Tedi mine is a large open-pit mine located in Western Province of Papua New Guinea near the border with Indonesia. It began production of gold in 1984, copper in 1987, and now produces concentrate containing both copper and gold that is shipped overseas for smelting. The mining company Ok Tedi Mining Limited (OTML) was formed by a consortium of transnational companies and the government of Papua New Guinea (PNG).[1] Their failure to build a planned tailings dam has led to environmental damage, legal action and international notoriety that will be discussed in later papers in this session.

Anthropologists and geographers have played a prominent role in conducting social and environmental impact studies prior to mining and in documenting subsequent events through local level research.[2] My own involvement has been rather different: I come to the project without extensive ethnographic research in Western Provnce. (My own field work has been primarily in East Sepik Province.) I made only one brief visit to Western Province, jumping from airstrip to airstrip collecting health centre statistics (Townsend 1984) and visiting a graduate student in the field.

From 1981 through 1984 while I worked as a medical anthropologist for the Papua New Guinea government research institute (IASER), my husband was employed as a civil engineer representing the Papua New Guinea government's interests during the construction phase of the Ok Tedi mine. His job title was Assistant Technical Manager, Mineral Resources Development Company.[3] He was based in the Department of Minerals and Energy. In his paper 'Giving Away the River' (1988) he has documented the history of the construction phase of the mine, venting some of his frustrations in attempting to attain some kind of protection for Papua New Guinea's economic and environmental interests.

We are dependent on published sources for events subsequent to December 1984, when we left Papua New Guinea. This is not necessarily a disadvantage because our primary intention is to see how what we knew (and what we did not know) throughout the construction stage has born fruit in later developments. This may help to alert others to comparable dangers at early stages in other mining projects such as the Frieda-Nena mine in the Sepik watershed.[4]

Impact on the Fly River: A brief literature review

Given the limitations of time, I would like to set aside the obvious severe impact on the people and environment in the immediate vicinity of either the mine or its facilities at the river port of Kiunga. I will also not attempt here to talk about potential impact in the Lower Fly or the Torres Strait. Here I will only deal with the downstream impact of mining on the Ok Tedi south from Ningerum to its

junction with the Fly, and the Middle Fly down to Obo, just above the junction with the Strickland. (See overheadmap.)

The Fly is one of the world's great tropical rivers. Though not impressive in length, at just over 1000 km, it ranks equivalent in total outflow to the Danube, Zambezi and Niger (Smith and Bakowa 1994). Because of the high rainfall in its catchment area, the Fly ranks first among the world's rivers in runoff per unit of catchment area. After the river leaves the mountains it meanders through flat terrain flanked by lakes and swamps. Biologically, the Fly is unique in both the numbers of fish species and their unusually large size. Until recently, the Fly was little known, but 'more research has been done on this tropical river system than any other in the world' (Mowbray 1995:4).

Two years prior to the commencement of mining, the Environmental Impact Study (EIS) was completed by Maunsell and Partners (1982), an Australian consulting firm retained by OTML. The EIS predicted that increases of suspended solids and heavy metals (primarily copper) would have severe effects on fish downstream to Ningerum and possibly farther. These predictions were based on the agreed construction of a tailings dam, limits to the dumping of waste rock and overburden,[5] and mining at a daily rate of 45,000 tonnes. None of these conditions have, in fact, held. The tailings dam was never built; dumping waste rock into the river system was accepted; and the rate of mining was dramatically increased.[6]

Data collected by OTML's own scientists have documented more than a decade of damage to water quality and fish populations gradually extending downstream from Ningerum to the lower Ok Tedi and into the middle Fly River. Of the heavy metals entering the river system, copper has been given the most attention. While not so dangerous to humans as the other heavy metals, dissolved copper presents a serous threat to fish and to aquatic invertebrates. In the stretch of the Ok Tedi and Middle Fly we are discussing, average levels of dissolved copper (as measured by OTML's routine monitoring in 1991/92) were between 11 and 13 ig/l, approximately fifty times as high as background levels in parts of the river unaffected by mining wastes (Apte et al. 1995:72). Water samples taken from swampy locations by an outside researcher showed copper values up to 50 ig/l (Hettler and Lehmann 1995:1). Any of these levels are in the range harmful to sensitive fish and aquatic invertebrates. Other trace metals that have been measured in river water have not prompted as much concern from the environmental scientists working in the area.[7]

Moving from the chemical impact on the river system to the physical impact, waste rock from mining has physically altered the river in ways both predicted and unpredicted. The EIS had tentatively predicted that sedimentation would be negligible below Ningerum. Below Ningerum, on the meandering lower Ok Tedi, it was predicted that temporary deposits of sand-sized particles would reach a mean depth of only .05 m in the first few years of mining. The maximum increasee in the bed, about 0.1 m, would not occur until many years after mining ceases, as the waste dumps erode.

The EIS predicted that all mine waste reaching the Fly River would be washed downriver to the delta. The only part of the Fly River to be altered by deposits of sediment would be the lower middle Fly, a very meandering stretch just above the junction of the Strickland River. This would occur at times when there was high water on the Strickland, backing up the waters of the Fly. Because the maximum deposition in this part of the Fly was predicted to be 0.3 m, flooding was not considered to be a problem (Maunsell & Partners 1982, Vol. 1, p. 64).

It should be noted that the computer modelling on which the EIS made its predictions about the fate of the Fly River was based on an optimistic set of assumptions. Starting with slightly different assumptions, consultants working for the Department of Minerals and Energy (Pickup and Higgins 1979, cited in Maunsell & Partners 1982, Vol 3, Working Paper 5) had made more pessimistic predictions about the extent of sedimentation, even in the presence of the planned taillings dam.

By the early 1990s the level of the river bed was substantially higher than predicted before mining began. Figures released by the company indicated an increase in bed level by 1993 at Kuambit, on the Middle Fly River, of more than one metre above 1984 levels (OTML 1993, cited in Hettler and Lehmann 1995:25). By then OTML was predicting that bed level would aggrade to 2.2 meters above baseline at Kuambit during the life of the mine (Eagle andHiggins 1991:236).[8]

The study by the Starnberg Institute (1991), commisioned by the Department of World Mission of the Evangelical Church of Bavaria (Germany), while very thin in data and greeted with much skepticism by many (e.g. Jackson 1993:155-156), served to bring international attention to Ok Tedi environmental issues. Sedimentation and dying forests on the lower Ok Tedi were shown in its photographs (1991:36, 46). The internationalizsing of concern was continued by the International Water Tribunal and by the Australian Conservation Foundation. Neither of these added substantial new data but both were effective in reaching the international media.

The best evidence available to us of the impact of mine sediments on the flood plain comes from two sources: the anthropologist who has documented the Yonggom people's observations and concerns, Stuart Kirsch (1993), and environmental scientists Jörg Hettler and Bernd Lehmann (1995), whose work was funded by the United Nations Environmental Programme and provided the first major independent set of data on water quality and sedimentation.

Kirsch has shown that by 1988 mine wastes were flooding over the banks of the lower Ok Tedi after a heavy rain in the mountains and destroying alluvial garden land. Heavy deposits of mud along the banks began to back up into the feeder streams. By the early 1990s trees were dead not only along the banks of the river but in some spots as far as 4 km away from the Ok Tedi. Deposits of the so-called 'slimes' are comprised of fine particles all of similar size rather than the wide variation of particle sizes normally found in soil. They present a particular problem as they do not allow for the formation of proper drainage and soil aeration that would allow vegetation to thrive.

After mining began the channel of the Ok Tedi became shallower and wider and nearly impassable with sandbars at

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low water and dangerous strong currents at high water, making canoe travel (the usual form of local transportation) dangerous. Some riverside village sites were flooded, including the large Yonggom village of Atkamba. Although most of Kirsch's work had been on the Ok Tedi, in 1992 he also visited Yonggom villages in the upper part of the middle Fly, from Kiunga to just below the junction of the Ok Tedi with the Fly, to document the impact of mining.

Hettler worked primarily in the lower Middle Fly, collecting 117 water samples and 156 sediment samples from the flood plain in 1993. The results of the analysis of the sediment cores, collected in Plexiglas tubes 1 to 1.5 meters long, are especially relevant to our interests. Hettler collected these sediment cores from a wide range of sites, including the two types of lakes found in the flood plain: blocked valley lakes and oxbow lakes, or cut-off meanders formerly part of the river itself, showed deep (up to 70 cm) deposits of copper-rich sediment accumulated since mining began in 1984. The drowned valley lakes are shallow lakes with much slower rates of sedimentation. In these ancient lakes carbon-14 dating shows that natural deposition was less than 1 mm/year prior to mining. Deposition has increased because of flooding since mining began: the cores show that a significant layer of copper-rich sediment derived from mining has been deposited in the lakes and swamps adjacent to the Fly (Hettler and Lehmann 1993:20).

Hettler and Lehmann concluded, like other scientists before them, that copper was the trace metal most likely to damage the aquatic environment. Their most disturbing conclusion was that the sediments deposited in the alluvial plain and swamps may take centuries to return to normal. After the cessation of mining natural erosion will clear out the metal-rich sediments from the river banks and channel, but there is no comparable way to 'detoxify' (remove heavy metals from) the alluvial plain.

Impact of mining on subsistence crops

The impact of the mine on the lands of the floodplain has been relatively neglected. The EISposition was that there would be no terrestrial impacts throughout the river valleys of the lower Ok Tedi and the Middle Fly, other than the impact of earthmoving for roads, for example. Only the terrestrial fauna and flora of the Wopkaimin and the Ningerum, the people in the immediate vicinity of the mine, would be affected. The tailings would be contained and competent waste rock piled in stable dumps near the mine. Only through gradual erosion would mine wastes gradually enter the river system and be flushed down the river to the delta, where effects would be minimal. In this view, mining represents only a slight acceleration of processes of erosion that are always going on throughout the river's catchment area. Now, of course, all of this is changed and we know that sedimentation has raised the level of the river bed beyond the predictions. Sediments have covered alluvial garden lands and altered patterns of drainage of swamps. The long term impact of this on conditions for growing food crops is understudied and likely to be significant.

For all people downstream from the mine, sago is a staple food. Sago palms (Metroxlyon sp.) grow in alluvial plains and backswamps throughout lowland PNG, growing best in 'shallow swamps where there is a regular flooding season.' (Pajimans 1980:9, see also Townsend 1974). Too much water, water that is too brackish or extended drought all can stress sago palms and cause permanent stunting and low productivity. In our Sepik research we noted that the most productive sago grew in the better drained areas of the swamp, along the base of the foothills on which the Saniyo built their hamlets. Deeper in the swamp, the palms grew densely, suckered strongly, were stunted and did not come to maturity, though they remained a suitable source of palm cabbage (the growing tip of the palm and undeveloped leaves) and leaves for thatching roofs.

As sedimentation has altered the flooding and drainage patterns of the sago swamps of the Ok Tedi impact area, it is not surprising that sago productivity has been affected, and much longer term impact may be anticipated. Observations of the Yonggam, as quoted by Kirsch (1993), echo comments about reduced sago productivity that I heard in the East Sepik village of Mapisi, where drainage patterns in an adjacent sago swamp were altered to build a small airstrip, a project of very much smaller scope. Reduced starch yields were noticed within a few years after the changed drainage pattern in Mapisi.

Overbank flooding of the Ok Tedi has also damaged the alluvial garden sites in which bananas are the main crop, forcing Yonggom to clear inland sites that are both less fertile and more distant from their villages.

Aside from the physical impact of sedimentation on sago and gardens, are heavy metals likely to be a problem for subsistence crops? It is difficult to say if this is a realistic concern. No one even dreamed of monitoring food crops in the EIS. We do know that heavy metals can present a health risk in food. An unsettling parallel is provided by cadmium toxicity in Japan. Japanese rice contains higher levels of cadmium than rice from elsewhere in Asia, a result of irrigating fields with cadmium-polluted water. Long-term exposure (over fifty years) to elevated levels of cadmium in rice in the most affected river valley led to an epidemic of atai-atai disease, literally 'ouch!--ouch!' disease. 'Ouch! ouch!' refers to the severe bone pain that is one of the symptoms of the disease, in addition to heart and kidney damage.

The fact that cadmium pollution in rice can threaten human health does not necessarily imply that sago or bananas grown in alluvial gardens are similarly vulnerable. Neither is a cereal grain as neither are irrigated. On the other hand, both sago and bananas are slow-maturing crops with potentially long exposures to taking up heavy metals into plant tissues. Fortunately, cadmium does not occur in Ok Tedi deposits at levels as high as some copper ores. The point we are making is that the potential impact of the mine was defined so narrowly as to exclude from the start the collection of data relevant to these concerns.

Controlling the flow of information

The larger question that we need to ask is, who controls the production and flow of knowledge? In relation to Ok Tedi, we would like to look at some ways that OTML (the mining consortium) and more specifically BHP (the multinational corporation within the consortium that had

the most direct access to technical data) were able to control the flow of information to their advantage, not only to the disadvantage of landowners downstream from the mine, but also to the disadvantage of the PNG government as shareholder in the mine.[9] The multinational corporation was able to control
(1) what data was collected
(2) what data was released and when it was released and
(3) the channels by which information was released.

1) The most glaring instance of the 'failure to collect informations' was not agricultural but geotechnical data. From the first trip he made to the mine site in April 1981, Bill, as a broadly trained civil engineer, came back with one overwhelming impression: the scars of former landslides indicated the importance of geotechnical studies to the construction of the dam for hydropower, the tailings dam and the mine itself. He recommended to the government that they hire a world-class consultant to do this evaluation. The government deemed the cost of some US$ 50,000 to be excessive and argued that such studies were the responsibility of OTML. OTML continued site preparation for both dams without significant study until both sites were lost to landslides. Even after the Ok Menga dam site was abandoned because of land movement, OTML did not do the customary site mapping of the Ok Ma site before beginning construction. The total cost of beginning work on these two dams that were never built exceeded US$ 150,000,000. Some of this cost was recovered through construction insurance in an out-of-court settlement for an undisclosed amount that was reached just prior to going to trial in the PNG Supreme Court in 1989. (The PNG government was part owner of the insurance company as well as of the mine, so they were the loser on both sides.)

Proper geotechnical mapping and evaluation in the vicinity of the mine was not commissioned by OTML until after a huge rock avalanche, the Vancouver Ridge Landslide of August 1989, threatened the process plant. At that time extensive geological risk assessment was done. The consulting geologist commented drily (Hearn 1995:51): 'In this way the study differed from most other hazard mapping exercises...in that it was undertaken on a fairly intensive basis partway into an established project rather than at the feasibility or planning stages, as is usually the case.'

2) The timing of information flow was (and remains) an even more strategic necessity for the company, in its desire to control all phases of the project. Once it had been agreed that water quality monitoring data would be collected and analysed by OTML, the corporate management controlled the release of that data. The first report, for the last half of 1982, was not made available to the government until December 1983, after the first submission requesting approval of the Interim Tailings Scheme. When they were finally released those first reports, dealing with a period of heavy construction but prior to any mining, already showed very high levels of heavy metal pollution. Management certainly had at least preliminary data on which to base its negotiations. If the government had had this data they would have evaluated the Interim Tailings Scheme in a different way, with much more emphasis on heavy metals, perhaps even insisting on delaying the project until the construction of a proper tailings dam was back on track.

The delay in releasing environmental reports became a consistent pattern. Geographer Richard Jackson, who is not an unfriendly critic of the mining operation, gently chides the company for keeping environmental data under wraps (Jackson 1993:161). Jackson cites 1990 environmental data that should have been in the public domain but that he was able to obtain only surreptitiously. There is no reason to suspect that the company's laboratories have falsified data, he concludes. They are simply reluctant to publicise embarassing date that they have collected that indicate that they have not even been able to adhere to environmental standards that they themselves were allowed to write, well in excess of standards in other countries.

Some decisions were forced at OTML Board meetings on the basis of partial information, with' key pieces withheld from government representatives to the Board. One instance of this was the Wahler Associates' report, a consultancy on the siting of the proposed tailings dam. The Board considered only the ill-fated lower Ok Ma site. Only *after* this meeting was the Wahler report made available for the government's technical staff to review. This review indicated that the upper Ok Ma site had several clear advantages over the lower Ok Ma site (W.H. Townsend memo of 29 April 1983).

3) Just as the transnational company was able to control the timing of information flow, it succeeded in controlling the channels for the flow of economic and environmental information. By cultivating direct access to political leaders, an access that was denied to public servants working on the project within the PNG bureaucracy, management was often able to gain concessions that might otherwise have undergone more careful scrutiny.

For researchers like ourselves scientific publications in journals and conference proceedings are the main channel for information about the mine. We do not have access to the considerable 'gray literature' that includes OTML's Environmental Investigations and Environmental Monitoring Programme 6 Monthly Reports.[10] Reading the many publications coming from the OTML scientific staff, as well as publications by non-OTML scientists who have been given logistic support and data by OTML, I have been struck by unaccountable gaps. One gap of special interest to me is the apparent absence of published data on heavy metals in fish tissues.[11] The Environmental Impact Study proposed procedures for monitoring fish for heavy metals. At the Torres Strait Baseline Study conference, Ross E. W. Smith (1991) of OTML reviewed the entire programme of biological monitoring. He refers to tissue samples being taken from the most abundant species and being analysed for copper, zinc, cadmium and lead, but he cites no references to results, nor does he mention this work continuing after 1985.

Conclusions

By titling this paper, 'Giving Away the River, cont.,' we initially had intended to suggest that we were taking up a project

that we had left for several years. Unfortunately, our study at a distance of developments over the past decade reveals multiple meanings for our title. An added meaning is that the PNG government has continued to 'give away the river,' in the sense of accepting costly environmental damage while receiving very little economic gain in taxes and profits, gain that was to have been directed to development of the country and its people.[12] Another sense in which 'giving away the river' has continued is that because no tailings dam was built, the environmental impact of sediments and heavy metals has spread beyond the river channel into lakes and wetlands, where the effects are likely to persist for a very long time. A final metaphorical sense in which a river is being given away is that the transnational company has been permitted to take control of the flow of information and use it in its own narrowest interest.

Notes

[1] During the early 1980s the owners of the mine were the Australian company BHP (30%), the American company AMOCO Minerals (30%), a group of German companies (20%) and the PNG government (20%). Due to a series of changes of ownership and mergers that will not be discussed here, current ownership is BHP (52%), Inmet Mining Corp of Canada (18%) and the PNG government (30%). Early this year BHP became the world's largest copper mining company by acquiring the American mining company Magma.

[2] A few who have been particularly visible are David Hyndman (1994), Richard Jackson (1993), Robert Welsch (Jackson, et al. 1980), Stuart Kirsch (1993), David King, Nicole Polier, Frederick Barth (Barth and Wikan n.d.), Pamela Swadling (1983) and Mark Busse(1991).

[3] There was no Manager, except briefly, but that is another story.

[4] This paper is also a piece of a larger work in progress, a textbook in which we develop a case study for teaching engineers about the social context of their profession while teaching social scientists something about engineering. At my most optimistic, I hope that we might accomplish something similar to what is being done in medical anthropology (McElroy and Townsend 1996, Townsend and McElroy 1992), using a shared ecological perspective to bridge engineering and anthropological disciplinary barriers, just as medical anthropology bridges biomedical and anthropological approaches to disease and illness.

[5] A limit of 60 million tonnes of incompetent waste rock in the Southern Dumps was part of the original Ok Tedi Agreement.

[6] The daily mining rate was raised from 45,000 tonnes to 70,000 tonnes in negotiations for the copper phase (Jackson 1993:159). The actual amount of material produced necessarily varies from day to day but on average has been about 180,000 tonnes per day, comprised of 80,000 t of ore sent through the mill and 100,000 t of waste rock (Eagle and Higgins 1991:233). This is roughly equivalent to drilling, blasting and moving 75,000 cubic meters of rock each day.

[7] But Lutz Castell, the scientist who contributed to the Starnberg Institute report (1991:49-51), was particularly concerned about arsenic, zinc, cadmium and lead, in addition to copper. The Australian Conservation Foundation expressed concern about OTML abandoning the monitoring of zinc, cadmium and lead in water, sediment and biota despite elevated copper, lead and cadmium in crabs (Rosenbaum and Krockenberger 1993: 11-12).

[8] This would imply even higher aggradation of the river bed in the lower part of the Middle Fly, due to backwater effects of the Strickland (Hettler and Lehmann 1995:25). Furthermore, even higher levels may come from erosion after the closing of the mine.

[9] As a shareholder in the mine, the PNG government has an interest in the profitability of the mine that is similar but not identical to that of the other shareholders. For example, in the case of tailings disposal, PNG has much more of a long-term interest in what happens after the closing of the mine, both with respect to long-term damage and to the possibility of future reprocessing of the old tailings by new technology.

[10] Hyndman (1994:99-100) discusses his difficulties surrounding access to such data.

[11] Smith and Bokowa (1994:194) allude to elevated levels of copper in the liver and kidney of catfish in one of the oxbow lakes of the Middle Fly. The Australian Conservation Foundation also had access to 1993 OTML reports of elevated heavy metals in crab tissues (see endnote 6, above).

[12] While Ok Tedi represented 47.1% of exports in 1990, it contributed only 2.5% of government internal revenues, largely from income taxes on salaries, customs and duties, and road use fees (Anere 1993:221). Company income taxes were not scheduled to come into effect until 1998, after the investment recovery phase ends. Though PNG holds 30% equity in OTML no dividends had yet been paid to shareholders by the end of 1990 (Jackson 1993:50).

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Jum (swidden) Cultivation in the Chittagong Hill Tracts

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Abstract

Swidden cultivation, otherwise known as 'slash-and burn' cultivation, has been practised in the Chittagong Hill Tracts (CHT) region in southeast Bangladesh since time immemorial. Even about three decades ago, swidden cultivation was the mainstay of the economy of the CHT. Although this is no longer the case, swidden cultivation still plays an important role in the economy of the indigenous people of the CHT. Unfortunately, development planners in recent years have not only ignored the important role of swidden cultivation in the CHT, but have been blaming it for the endemic deforestation and soil erosion in the region.[1]

Since the last century a significant percentage of the indigenous population has given up swidden farming in favour of plough cultivation. More recently, since the 1960s and 70s, a large number of indigenous farmers have taken to market-oriented horticulture and tree farming, largely because of the constantly diminishing yields from over-cropped swidden lands. Nevertheless, swidden cultivation is still practised by a significant percentage of the indigenous population of the region, especially in combination with other modes of cultivation. In this paper, I shall describe the practice of swidden cultivation in the CHT from a historical and current perspective and discuss some of the current issues which have come to be related with swidden cultivation such as the issues of deforestation and soil erosion. In addition, I shall consider the cultural heritage of swidden cultivation in the CHT and the likely future of this ancient mode of cultivation.

Introduction

2.1. The Indigenous Peoples of the Chittagong Hill Tracts

The hilly tropical region of the Chittagong Hill tracts shares borders with Burma (Myanmar) and India and consists of the three districts of Rangamati Hill Tracts, Bandarban Hill Tracts and Khagrachari Hill Tracts.[2] It is the ancestral home of the *Bawm, Chak, Chakma, Khyang, Khumi, Lushai (Mizo), Pankhua (Pankho), Tanchangya and Tipra (Tripura)* who were traditionally all swidden cultivators, although some of them also used to, and still occasionally do, engage in hunting, fishing, gathering and herding activities. The *Chak, Khyang, Khumi and Mru*, who live mostly on the ridge-tops, are still largely swidden cultivators. The *Chakma, Marma, Tanchangya* and *Tipra* who live on the gentler slopes and river valleys engage in both swidden cultivation and in plough agriculture which involves irrigation, unlike swidden farming, although the *Chakma* are also involved in market-oriented tree farming and horticulture, in addition to swidden and plough cultivation. The *Bawm, Lushai and Pankhua*, who are also traditionally mountain-dwellers, are engaged in both swidden cultivation and in market-oriented fruit farming, but not in plough agriculture. With the spread of formal education and the gradual integration of the CHT economy with the market economy of the nearby plains, a process which still continues today, more and more indigenous people are engaged in private and public service, but only a very small number of them are engaged in business and commerce, which too is largely restricted to the *Chakma, Marma* and *Tipra* who together make up more than four-fifths of the indigenous population of the region.[3]

Swidden cultivation is also still practised in South and Central America, Africa and China, in almost every country of Southeast Asia except Brunei and Singapore, and in Sri Lanka and India. The Chakma word for swidden is *jum*. In northeast India and in Bangladesh it is generally known as jum cultivation. Because of this common heritage of jum or swidden cultivation, the indigenous peoples of the CHT are also collectively called *Jumma*.[4] Then again, since the indigenous peoples of the CHT live in hill country, in contrast to the rest of Bangladesh which for the most part consists of deltaic plains, they are also referred to as *Pahari* ('hill people' or 'hillpeople')

2.2 The *Jum* or Swidden Method of Cultivation

In the CHT the most common method of swidden or jum cultivation involves the clearing of wooded land or bamboo brakes, usually forests of secondary growth, around February, which may continue until April[6] but is usually completed by March. The method of choosing a swidden field may vary from people to people. For example, in the case of the *Chakma*, the choice of the field usually depends on individual initiative. In the case of the *Pankhua*, the usual manner of choosing a site involves a collective decision of the swiddeners of the village who sometimes even draw lots to decide on the choice of plots with the luckier ones getting the choicer plots.[7] The average size of a plot is about one hectare.

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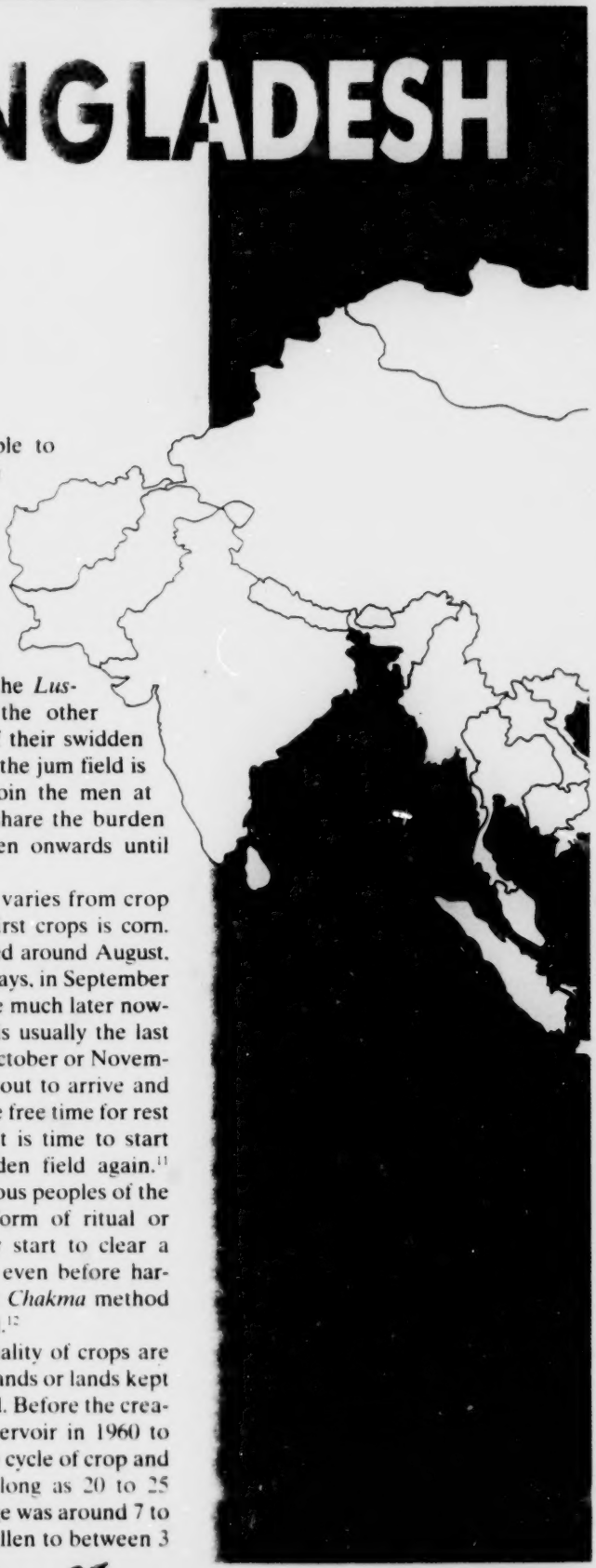

Sunny east-facing plots are preferred because they are good for rice as are plain lands and valley bottoms because of the richness of the soils. Sites with very large trees will be avoided because they will involve unusually hard labour to fell the trees. Then again, places with too little vegetation, e.g., lands that have only, or largely, grasses like *Sunngrass (Imperata arundinacea)* and *Khagra (Sacceftram spontaneum)* or weeds growing, will also be avoided as they are likely to have too little humus, and hence, soil that is of poor quantity . Bamboo brakes of certain species may be ideal choices. In most cases, gentler slopes are preferred over steeper ones. Once the field is chosen, all vegetation, except for the larger trees, will be chopped down. In the case of the latter, only the lower branches are lopped off.[8]

With the clearing of the jum field one of the most arduous tasks - in which only the men are usually involved - is over. After a month or so after the field is cleared, when the vegetation is considered to have dried enough in the sun,[9] the jum field is set afire. This is usuallly done in April. Occasionally, a second fire may be necessary. The ash acts as fertiliser[10] and normally, no other fertilisers are used. With the onset of the first rains, around April or May, small holes are dibbled into the ground by a specially shaped knife, into which varieties of seeds, from rice, maize, pumpkin, gourd, sesame, yam and other vegetables, to such other crops as cotton, are put. When the seeds germinate, the time gradually comes to tend to the crops, weed them, and to keep wild animals and birds off the field. The methods, again vary from people to people. The *Chakma* use scare-crows, catapults and even guns, and usually post a guard to frighten away birds and other unwanted animals from their jum field. The *Pankhua*, along with the *Lushau* and *Bawm*, on the other land, usually fence off their swidden fields. Normally, after the jum field is cleared, the women join the men at work and both sexes share the burden of the work from then onwards until after harvesting.

The time of harvest varies from crop to crop. One of the first crops is corn. Rice is usually harvested around August, or more usually, nowadays, in September because the rains come much later nowadays. Cotton, which is usually the last crop, is harvested in October or November, when winter is about to arrive and the swiddener will have free time for rest and recreation, until it is time to start clearing a fresh swidden field again.[11] Almost all the indigenous peoples of the CHT observe some form of ritual or ceremony before they start to clear a field for swidden and even before harvesting. The traditional *Chakma* method was to sacrifice a fowl.[12]

The quantity and quality of crops are usually best on virgin lands or lands kept fallow for a long period. Before the creation of the Kaptai reservoir in 1960 to produce electricity, the cycle of crop and fallow used to be as long as 20 to 25 years,[13] and the average was around 7 to 10 years.[14] This had fallen to between 3

to 5 years in the 60s and 70s[15] and remains about the same now.[16] Due to the shortage of swidden lands and the rise of the local population, which in turn has led to a much shorter fallow period, the harvest from swidden lands has become poorer and poorer over the years. Given the recent trend of decreasing yields, it is not difficult to see that a futher reduction of the cropping cycle would make swidden cultivation hardly worth the labour input that is necessary to produce even a very modest harvest. A British district officer named Lewin had estimated in 1869 that the average yield of rice in a jum field was around 750 kilograms per acre.[17] A very similar estimate was made by one of Lewin's successors-in-office named Hutchinson in 1906.[18] However, in 1963 Khisa had estimated that the average yield of rice per acre had come down to around 225 kilograms, to almost one-third of the previously mentioned yield![19] A very similar situation prevails in the case of almost all the other crops as well. Needless to mention, whereas jum farmers were considered well-to-do in the last century,[20] by the 1960s farmers who lived solely of swidden cultivation were indeed quite impoverished in comparison to their forefathers. The yield from swidden farms now is estimated at about the same as it was in the 1960s, and in some cases, somewhat poorer.[21]

3. From Swidden Farming to Intensive Market-Oriented Agriculture

3.1 The Swidden and Forest Lands are converted to Reserves and Plantations

Soon after colonising Bengal in the 1760s, the British East India Company started a military campaign to expand its sphere of influence eastwards, a move that was strongly resisted by the indigenous peoples of the region.[22] Ultimately, of course, the indigenous peoples were no match for the might of the British empire. In 1860 the CHT was declared a district within Bengal. In the1870s, hardly a decade after formal annexation of the region, vast tracts of previously-cultivated swidden lands and virgin forests within the CHT were taken over by the colonial government and declared as 'reserves', over which the indigenous people could no longer exercise any right to live within it, or cultivate it, or use its resources, as they hitherto used to, on threat of imprisonment. The larger part of these lands were kept as natural forests. The remaining lands were cleared of their vegetation and the cleared lands were converted to mono-plantations of teak trees by importing saplings from nearby Burma, in which country the plant grew naturally.Thus, overnight, the common lands of the indigenous peoples of the CHT became a category of land over which the British government alone was said to have any right.[23]

Unfortunately enough this instance of unjustly depriving the indigenous peoples of their ancestral lands has not been righted to date. As recently as in November, 1996 the government of Bangladesh has continued its attempts to take over more indigenous lands - including privately registered lands - to convert them into forest reserves.[24] It may be mentioned here that the continuing policy of denying any sort of benefits from the income from these lands to the indigenous people of the region is contrary to provisions of the Convention on Biological Diversity which has been ratified by the government of Bangladesh.[25] In the same vein, the continued refusal of the government of Bangladesh to provide full formal recognition to the collective land rights of the indigenous peoples of the CHT is also a violation of the International Labour Organisation's (ILO) Convention on Indigenous and Tribal Populations of 1957 (Convention No. 107) which it has ratified.

3.2 The Swiddeners turn to Plough Agriculture

Although the earliest recorded case of plough agriculture in the CHT was in 1798,[26] the plough method did not really take off in a significant manner until two decades later under strong encouragement from the British government. The primary objectives were twofold. On the one hand, the colonial government sought to increase its revenue earnings from plough cultivation, and on the other hand, it sought to 'sedentarise' the dispersed indigenous population. Because swidden cultivation involved a rotational cycle of crop and fallow, the swidden farmers were highly mobile, if not exactly, 'migratory', and this was not very conducive to easy administration from the point of view of the British administrators. The transition from swidden farming to irrigated plough agriculture did eventually take place, at least in the case of the valley dwelling peoples, but the process was slower than was anticipated by the British government because of various factors. Firstly, the transition tended to disrupt the clan-oriented systems.[27] Secondly, the yield from the once-a-year-cropped plough fields with little or no fertilisers was not that much higher, whereas it *was* higher, than the swidden fields fed by ash on near-virgin soil.[28] Thirdly, the drudgery and monotony involved in wet-rice cultivation in mosquito-infested fields in comparison to the varied and versatile labour involved in upland swidden cultivation in healthier and more hygienic surroundings was quite irksome, to say the least. Fourthly, the plough-cultivation in villages were in those days a more highly prized target for marauding *Lushai (Mizo)* raiders from Mizoram than the more dispersed and sparsely populated villages dependent on swidden cultivation.[29] Lastly, the cattle needed for the ploughs were extremely vulnerable to tigers and leopards, among other things.[30]

Despite the above odds, thousands of indigenous farmers, especially from the valley-dwelling peoples such as the *Chakma, Marma, Tanchangya* and *Tipra* eventually took to plough cultivation, and by the 1920s, had totally abandoned swidden cultivation. However, despite their willingness, large sections of the above-named peoples could not become plough cultivators for the very simple reason that the terrain for the greater part of the CHT was too rugged and undulating to be used for plough cultivation. This phenomenon did not escape the notice of an astute British civil servant called Ascoli who rightly estimated in 1918 that hillside farming would continue to play a vital role in the CHT economy for many more years to come.[31] The scarcity of lands within the CHT with good soil conditions was demonstrated again in the 1960s, this time through extensive graphs, charts and tables, as a result of a two-year long survey by a reputed Vancouver-based Canadian firm of soil scientists called Forestal

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Forestry and Engineering International Limited who did extensive studies on the variety of soils of the CHT terrain.[32] Even Khisa came to very similar conclusions, independently of the above.[33] Thus it is easy to see that where a large section of the indigenous population living in the valleys and on the gentler hill slopes had no real opportunity to become plough cultivators, the question of the traditionally ridge-dwelling peoples like the *Bawm, Chak, Khumi, Khyang, Mru and Pankhua,* becoming plough cultivators does not arise at all. Yet the myth that the peoples living in the CHT are averse to plough cultivation lives on in the plains of Bangladesh.

3.3 The Swiddeners become Horticulturists

We have seen from the above that even as early as in 1918, the population of the CHT had far exceeded the number that could be comfortably absorbed in plough agriculture, and consequently, the bulk of the CHT population had to depend on the only form of cultivation which it knew to be suitable on sloping land, namely, swidden or jum cultivation. If we then consider the situation about four decades later, in 1960, the picture becomes even gloomier because in this fateful year the construction of a dam on the river Karnaphuli within the CHT was completed and a huge reservoir of some 1,400 square kilometres was created. The reservoir displaced nearly 100,000 people - largely *Chakma* - including about 10,000 families of plough cultivators and 8,000 families of swiddeners, who made up almost one-third of the then population of the CHT.[34] About 22,000 hectares of plough lands were permanently inundated. The plough cultivators at least received some monetary compensation and *some* alternative lands, but the swidden cultivators did not receive any compensation at all as their rights over the swidden commons was not recognised officially as a right worthy of monetary or other compensation.[35]

Hardly four years later, in 1964, just about the time that the Canadian soil scientists of the Forestal company were starting their survey in the CHT, an exodus of tens of thousands of impoverished and landless Chakma evacuees of the Dam took place. These refugees were at first sheltered in Mizoram State of India but were eventually taken to Arunachal Pradesh, near the border between India and China, by the Government of India. These people and their descendants, currently numbering about 80,000, still remain in this northeastern Indian province as stateless refugees.[36] It was in this backdrop that the thousands of erstwhile swidden farmers and plough cultivators who remained within the country were forced by circumstances to try their hands at horticulture under the patronage of the provincial government.

It may be recalled that one of the major findings of the Forestal Report, as mentioned earlier was that the bulk of the CHT lands was suitable only for afforestation and horticulture. Since the forest wealth of the CHT was then still considered to be rich, the government of East Pakistan concentrated its efforts in the latter half of the 1960s in supporting local initiatives in fruit gardening by helping indigenous farmers displaced by the Dam - especially *Chakma* - to obtain leases of land for horticulture and easy-term loans from the government-owned Agriculture Development Bank[37] The first generation of *Chakma* horticulturists did not do very badly as far as their produce was concerned - which included pine-apple, banana, citrus fruit, jack fruit etc. - but problems related to marketing caused by the lack of storage and preservation facilities, exploitation of the fragile and unstable market by cartels, and transportation difficulties, among other things, stood as major obstacles towards fruit gardening becoming a stable source of income for the land-based economy of the CHT.[38] Nevertheless, thousands of land-pressed swidden farmers had no alternative but to continue to grow fruits to sell in the market in addition to cultivating swiddens. It is worth mentioning here that although from macroeconomic considerations market-oriented fruit gardening only really took off on a significant scale in the CHT in the 1960s and 70s, especially in the *Chakma* heartland, the *Bawm, Lushai* and *Pankhua* peoples had actually taken to orange farming as a cash crop as early as the 1950s [39] but the scale of production was, and still is, small because of natural constraints and marketing difficulties.

3.4 The Swiddener turn to tree Farming

Ever since the 1870s, the government department in charge of the CHT forests, the Forest Department ('BFD'), had started creating teak plantations on erstwhile forest and swidden lands. The most common method in which this was done was by employing swidden farmers and allowing them one harvest of swidden crops on the land earmarked for plantations with the express condition that they should plant teak saplings alongside their usual crops. This came to be known as the *taungya* method from the Burmese\Arakanese word 'taung' meaning hill, referring to jum or swidden cultivation, the most popular mode of hillside cultivation in these parts.[40] Not unsurprisingly, many of the indigenous people employed by the BFD in these plantations later created their own tree plantations of teak and indigenous species through the *taungya* method when they had no other viable means of livelihood to fall back upon, especially after problems related to marketing of durable fruits like pineapple started getting acute. This practice caught on in a big way especially in the *Chakma* country around the Karnaphuli reservoir area - where marine transportation of logs was cheap and relatively easy. In fact, many of the fruit gardeners of the 1960s and 70s switched over to tree farming in the 1980s and 90s. Tree farming is probably now the fastest growing type of land-related economic activity among the indigenous people of the CHT.[41]

3.5 Why Juming (Swidden Farming) Continues in the CHT

We have seen above that due to the drastic rise of the CHT population and the constantly shrinking area of lands that was available for swidden cultivation, swidden cultivation came to be less and less productive. The question that may arise is, why then did swidden cultivation still continue in the CHT, or for that matter, why does its practice still continue, given its huge decline in terms of productivity.

The major factor behind the continuance of swidden cultivation in the CHT is economic, rather than cultural. From the point of view of cultivation, lands which are not level enough for plough cultivation can only be utilised for fruit

gardening or tree farming, but even then, only if they are located within easy distance of roads, highways or navigable waterways, without which the fruits and trees cannot be marketed. Naturally enough, a very large extent of the CHT is not reached by either motorable roads or navigable highways. Consequently, these lands can only be utilised for swidden farming. Then again, even in the relatively accessible areas, problems related to lack of credit or tenurial security, difficulties in storing and marketing, among other reasons, have also seriously limited the option of market-oriented farming in the CHT.[42]

Thus it is seen that in many areas within the CHT indigenous farmers have been forced to combine swidden farming on the steeper slopes with plough agriculture on the gentler slopes nearby. In the areas which are situated relatively near roads and riverways, banana is the favourite choice. In the more remote areas such crops as banana are too heavy to be transported on foot to the nearest market. In such places, turmeric and ginger are favoured since dried ginger and turmeric are light in weight and fetch a relatively good price for even a moderately light load.[43]

4. Swiddens, Forests and Soil Erosion

4.1 Swidden Farming and Soil Erosion

Historically, we see that the indigenous farmers of the CHT have had to adapt their farming methods, and consequently their life-styles, at an amazingly fast pace due to demographic and economic pressures. Within a generation many predominantly subsistence-oriented swidden farmers had to become market-oriented fruit gardeners and tree farmers. Traditionally, swiddeners were used to planting seeds by making a small hole on the ground, sometimes called 'dibbling', and not by ploughing or hoeing. In fact, only a few generations ago many indigenous farmers were extremely reluctant to take up plough cultivation because they considered it a sin to overturn mother earth with a plough.[44] Thus, here is a very clear example of economic necessities overriding spiritual beliefs and traditional values. Ironically enough, from the standpoint of soil erosion, such a belief is far from irrational where cultivation of hillslopes is concerned. Yet, on the other hand, government authorities in the CHT have held swidden cultivation and soil erosion. Similarly, the debate on the relationship between swidden cultivation and soil erosion is alive in India as well. Writing about the relationship between swidden cultivation and soil erosion, an Indian anthropologist named P.K. Bhowmik, who has done extensive research on swidden cultivation in northeast India, wrote: 'Those who subscribe to the opinion that shifting cultivation results in soil erosion will find it disquieting that shifting cultivation is a response of the tribal people of the hill areas to the problem of erosion of fertile topsoil of steep slopes.' As M.S. Shivaraman, Adviser to the Programme Administration of the Planning Commission observed in 1957: 'It is a mistake to assume that shifting cultivation in itself is unscientific land use. Actually, it is a practical approach to certain inherent difficulties in preparing a proper seedbed in steep slopes where any disturbance of the surface by hoeing or ploughing will result in washing away of the fertile top soil. The tribal people, therefore, take care not to plough or disturb the soil before sowing' [45]

In another study on swidden cultivation by Tej Partap and Herold R. Watson very similar views have been expressed. I quote: "Shifting cultivation represented an extremely successful human adaptation to the rigours and constraints of the humid tropics. In an environment of fragile forests and soils, the integrated swiddeners have developed an agro-ecosystem that is diverse and is able to respond to environmental uncertainties (FAO 1991)."The swiddener used his knowledge of the natural environment not only to make swiddens but also to successfully gather, hunt and fish to provide food, fibre and medicine for the household, and even for the external market. Knowledge of both the tropical environment and the needs of the tropical crop repertoire is used to develop and manage micro-sites of his fields. Specific crop needs are matched to specific soils - a diversity of crops meshed with a diversity of micro-environments.' [46]

Now, this is of course not to say that swidden cultivation is *never* responsible for soil erosion. The point that I wish to emphasise here is that swidden or jum cultivation is not *per se* a method of cultivation that leads to soil erosion, although irresponsible juming - for example, juming on sloping land left fallow for less than 3 to 5 years, or juming on very steep slopes - can and does lead to soil erosion as has been experienced in India.[47] There are many instances of overcropping in the CHT which have reduced many good swidden lands into infertile and virtually useless grasslands.[48] Similarly, there are other undesirable practices which have come to be connected with swidden cultivation in the CHT such as setting fire to a larger area of land than is actually jumed, or setting fire to land that has insufficient vegetation, resulting in the destruction of the humus, as the soil itself gets burnt to an undesirable depth, and consequently, the fertility of the land is greatly reduced. These wasteful and unsustainable practices should, and can, be controlled and minimised. But swidden cultivation itself should not be stopped because of the wasteful practices mentioned above since they certainly do not form an integral part of the traditional practice itself and are largely the result of lazy or selfish conduct on the part of individual swiddeners. Undeniably, there is a strong need to discourage such practices.

4.2 Swiddeners and Forests

In the Chittagong Hill Tracts official records have constantly held that jum cultivation is the primary agent of deforestation.[49] Although it cannot be denied that irresponsible juming has resulted in some deforestation, jum cultivation is not only not the *only* agent of deforestation in the CHT, it is certainly not also the *primary* agent of deforestation either. So-called 'security' measures resulting in wanton clearing of forests through 'jungle-clearing' projects aided by foreign governments have been held to be far more destructive of forests than any other single cause.[50] In addition, the smuggling of teak and other valuable stolen timber by logging gangs and cartels based in Chittagong city, who are impelled by pure profit backed by an almost limitless demand in the market, pales into insignificance the extent of deforestation caused by swidden farmers in the reserved forests, for example.[51]

It is true that the creation of settlements of swidden farmers within the areas of the Kassalong, and especially the Reingkhyong Reserves over the past few decades has led to deforestation,[52] but this mass movement of indigenous people was caused overwhelmingly by the sheer economic necessity of landless farmers having to find alternative lands to cultivate, and in some cases by plough cultivators and other settled farmers who were displaced by government-sponsored non-indigenous settlers from the plains regions, especially in the 1980s.[53] Therefore, it is the short-sighted land and population policies of the government which has led to such a movement of people, and it is certainly neither accurate nor morally acceptable to blame the landless and dispossessed indigenous people for this unfortunate development. Therefore, it is important that any long-term forest conservation plan for the CHT forests take proper cognisance of the problem of land scarcity and economic crisis in the CHT.

On the other side of the ledger the positive contribution to forestry in the CHT through the swidden or *taungya* method, whereby most of the government-controlled plantations in the CHT were created since the 19th century, cannot be overlooked.[54] In addition, it should be born in mind that the creation of plantations of timber-producing trees by indigenous farmers on privately-owned lands - through the *taungya* or jum method - is perhaps the fastest-growing economic activity in the CHT today. In addition, the longstanding tradition of swidden farmers to keep aside a portion of their common swidden lands as a forest for the villagers' use should also be acknowledged. A few decades ago, almost every village had such a commonly owned forest.[55] This is unfortunately no longer the case, but the extent of these forest commons is still significant and would probably not amount to far less than the total area of natural forests directly controlled by the BFD. Many of these forest commons also contain the village herbaria maintained by shamans and village medicine men. This tradition and practice needs to be revived and strengthened, if necessary through the grant of title-deeds, because these forests are far more likely to be protected - because the cultural and economic interest of the villagers is connected to the survival of these forests - than the forests controlled directly by the government which seem to have many masters but few protectors.

5. The Jum Heritage of the Chittagong Hill Tracts

The above discussion has shown that jum cultivation may in fact have a positive rather than a negative relationship with forestry and soil conservation. In fact, experience in the CHT shows that on sloping land it is a far more soil-friendly and 'sustainable' method of cultivation than cultivation by ploughing and hoeing. For example, the ash from the burned vegetation in the swidden fields acts as the main fertilising and pest-controlling agent, avoiding the use of potentially toxic non-indigenous fertilisers and pesticides.[56] The other main nitrogen-fixing agent in swidden farms in the CHT, which also doubles as a pest-repellent, is the widespread culture of Marigold flowers, between, among and around swidden seed-beds.[57]

Another very positive side of jum cultivation is that with this method of cultivation the ecological ills 'caused by narrow genetic bases and monoculture'[58] can be avoided. The vast diversity of the type of crops in a swidden field, and the numerous species of every type of crop, is one of the most desirable aspects of jum cultivation. The biologically diverse crop repertoire in jum fields has, among other positive functions, the function of enriching the soil and minimising soil erosion which is visibly common wherever cultivation involves only one crop or few crops.

Quite apart from its contribution to the economy and ecology of the CHT, and of Bangladesh as a whole, it ought not to be forgotten that without jum cultivation there would have been no cotton tributes to feed the world famous muslin industry of 18th and 19th century Bengal.[59] The heritage of jum or swidden cultivation in the CHT has played, and will most certainly continue to play, an important role in affecting the lives of indigenous society in the CHT for many more years to come. However, of all its legacies, perhaps the legacy of cooperation and egalitarianism will survive the longest and be of the greatest value to the indigenous peoples of the CHT in the distant future. An indigenous writer from the CHT had held that the common practice of swidden farmers with surplus produce in giving away their surplus to swiddeners with poorer harvests in any given year had prevented the accumulation of capital in swidden-oriented indigenous societies.[60] This may well be true. The absence of very many wealthy people among the indigenous peoples of the CHT is probably also at least partly a result of this practice of communal asssistance to the needy and poor. But then, it is probably equally true that in the absence of that practice and tradition of sharing and helping others, indigenous society in the CHT would have been far more divided, disunited, demoralised and marginalised today. Despite their differences, the indigenous peoples in the CHT do have a strong collective sense of unity, identity and oneness. This is in large part due to the tradition of cooperation and community service which is deeply imbedded in the culture of swidden-oriented societies in the CHT. However, it is to be hoped that such a spirit will outlast swidden cultivation itself, if the latter does eventually cease to be practised in the CHT, as it most certainly will, given current trends.

6. Conclusion

Swidden or jum cultivation is, as stated earlier, an innovation that has survived for sloping lands in tropical regions where other forms of cultivation were not found to be as suitable because of natural factors or market forces. Perhaps it is due again to these factors that in relatively inaccessible and remote regions anything other than swidden farming is not economically and geologically feasible. Therefore, swidden farming is likely to continue in these relatively remote regions within the CHT for many more years to come. Let me now raise here two important questions regarding the future of swidden cultivation in the CHT. In the first place, if jum or swidden cultivation does continue to be practised in the CHT, should we not try to avoid the ecological ills which may accompany unwise applications of this method. And secondly, if the situation is such that the practices are sure to cease altogether in the distant future, as is more than likely

given present trends, should we not seek to preserve and protect this age-old practice as a knowledge system and heritage of value not just to the indigenous peoples of the region but to all of humanity? I would answer both questions with a firm yes.

As regards some of the wasteful practices of selfish and lazy swidden farmers mentioned above, I would suggest the following three steps: (i) to maintain a fallow period of no less than 5 years; this would also minimise the harm done to the earth by jum fires in fields with sparse vegetation where the very shallow topsoil gets burnt easily and thereby loses its humus and fertility; (ii) to totally avoid cultivation of steep slopes or to take erosion-control measures by constructing small barriers and terraces to prevent soil run-off where the soil conditions so permit it; and (iii) to prevent fires spreading beyond the limits of the area to be cultivated. I am sure that there are many more such positive steps that may be taken to avoid the ills that have come to be connected with swidden cultivation, although they do not necessarily go with the traditional practice of swidden cultivation in the CHT. The above-measures can be undertaken by the local authorities, but ultimately, for its success, there are no real alternatives to self-regulation by the swidden farmers themselves.

As regards the continuance of the jum method itself, since it is market interventions which are leading to its decline, and perhaps its ultimate demise, it is again market-related interventions which may be the the most effective way to prevent its decline and demise. A rise in the market demand for produce from the jums, e.g. rice, cotton, vegetables etc., may be good for any particular crop itself in the short run, but it might narrow down the crop repertoire and ultimately lead to monoculture, which will undermine the very basis for its sustenance. I can only think of subsidies to continue with the system itself and not for any crop or crops. Perhaps others will come up with better ideas. However, some intervention will be necessary to prevent the demise of this age-old practice. For otherwise, a great source of knowledge related to not just a form of cultivation, but one that is related to the conservation of forests and wildlife, and to indigenous medicine, will be lost to humanity forever. Closely related to the practice of jum cultivation is the practice of maintaining and conserving the forest commons of the indigenous people and of the wildlife in these forests and other forests within the CHT, including the sustainable methods of rearing of part-domestic and part-wild animals, injunctions on hunting practices, and so forth. If the traditional knowledge, practices and innovations of the indigenous peoples of the CHT related to forests is to be protected, these forests too must be protected. This can best be done by fully recognising indigenous title to these forests and by helping the indigenous peoples in their development initiatives. The emphasis should be on helping the indigenous people's own initiatives rather than to seek to involve them in centrally planned initiatives in the formation of which the indigenous peoples have had no important role.

Notes

[1] See for example, Muhammad Ishaq (ed), *Bangladesh District Gazetteers: Chittagong Hill Tracts*, Ministry of Cabinet Affairs, Establishment Division, Dhaka (1975), p. 104.

[2] Prior to its annexation to the British Indian Empire in 1860 the CHT did not form a part of any empire or nation state and was composed of small chieftaincies and other non-formalised indigenous polities. In 1947 it became a part of East Pakistan and in 1971 it became one of the districts within Bangladesh. The CHT was trifurcated in the 1980s. It has an area of about 13,189 square kilometres.

[3] According to the official census of 1991 the population of the CHT was 974,445. 51.4% (501,144) was indigenous. It is unlikely that this census accounted for the approximately 50,000 indigenous refugees from the CHT who have been sheltered in Tripura State, India since 1986. Even otherwise, the indigenous people of the CHT, as elsewhere in Bangladesh, feel that their population is far larger than is officially estimated.

[4] For a discussion of the concept of the Jumma people as a social entity and as an emerging political entity, see William van Schendel, *The Invention of the Jummas: Ethnicity and State Formation in Southeastern Bangladesh* in Sekhar Bandyopadhyay et al (eds.), 'Bengal: Communities, Development and States', University Press Limited, Dhaka (1995), pp. 135-173.

[5] For a view which holds that the concept of 'hill people' is a colonial construct which hinders national integration, see Prashanta Tripura, *Colonialist Barriers to National Integration: Modern Bangladesh and the Problem of 'Hill People'* in Imtiaz Ahmed and Megna Guhatha kurata (eds.), 'SAARC: Beyond State-Centric Cooperation', Centre for Social Studies, Dhaka (1992), pp. 92-104.

[6] Amarendra Lal Khisa, *Shifting Cultivation in the Chittagong Hill Tracts* (unpublished Master's Thesis), Department of Geography, University of Dhaka (1963), p. 50.

[7] This section is based upon discussions with *Pankhua* swiddeners. Correspondences on ways to improve swidden cultivation available in the Chakma Raja's Archives at Rangamati have also been consulted.

[8] Khisa, op. cit., p. 50.

[9] Ibid., p. 51

[10] Ibid.

[11] For a more detailed discussion on the harvesting cycle, see Khisa, op. cit., pp. 56-60 and Ishaq, op. cit., p. 82.

[12] Khisa, op. cit., p. 60.

[13] Forestal Forestry and Engineering International Limited in *Chittagong Hill Tracts Soil and Land Use Survey Report (1964-66)* (9 volumes), as cited in CHT Gazetteer, op. cit., p. 88. Khisa (op. cit., at p. 106) on the other hand, estimates the fallow period of about a century ago to have been around 12 to 15 years.

[14] CHT Gazetteer, op. cit., p. 88.

[15] Khisa, op. cit., p. 106. CHT Gazetteer, op. cit., p. 88.

[16] Author's discussions with indigenous swidden cultivators in the CHT.

[17] CHT Gazetteer, op. cit., p. 118.

[18] Ibid., p. 119.

[19] Khisa, op. cit., p. 76.

[20] CHT Gazetteer, op. cit., at 118, citing Captain T. H. Lewin.

[21] Writer's discussions with swidden farmers in the CHT.

[22] For the British Militarisation of the CHT and the indigenous peoples' resistance, see Dr. A. M. Serajuddin, *The Origin of the Rajas of the Chittagong Hill*

Tracts and their relations with the Rajas of the Chittagong Hill Tracts and their relations with the Mughals and the East India Company in 'Journal of the Pakistan Historical Society', Vol. XIX, part 1, Karachi (January, 1991), pp. 51-60, Ratan Lal Chakraborty, *Chakma Resistance to Early British Rule* in 'Bangladesh Historical Studies: Journal of Bangladesh Ithihaas Samiti', Vol. II (1977), pp.-133-156. Willen Van Schendel (ed.), Francis Buchanan in Southeast Bengal (1798), University Press Limited, Dhaka (1992), p. 101 (hereafter, van Schendel (1992)).

[23] For more details about the manner of appropriation of the lands of the indigenous peoples of the CHT by the British colonial government, see: (i) Raja Devasish Roy, *Forests, Forestry and Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh* (hereafter Roy (Forests) (1996)), paper presented at a workshop on the Rights of Indigenous and Tribal Peoples organised by the Minority Rights Group, London and the Commonwealth Human Rights Initiative, New Delhi, at New Delhi, India on 23-25 February, 1996, p. 2; (ii) Raja Devasish Roy, *Colonization, Marginalization and Disempowerment of Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh: Will there be a reversal of the trend?;* paper presented at an international conference on 'Bangladesh (1971-1996): Peoples' Struggles', organized by CERAS Alternatives at Dawson College, Montreal, Canada on 18-20 October 1996, pp. 3-5.

[24] See, for example, Kabita Chakma and Glen Hill, *Thwarting the Indigenous Custodies of Biodiversity* in Philip Gain (ed.), 'Bangladesh: Land, Forest and Forest People', Dhaka (1995), p. 128. See also, the Bengali newspapers, 'Bhorer Kagaj', Dhaka of 18 January 1996 and 3 December 1996 and the 'Daily Purkakone', Chittagong, of 28 November 1996.

[25] For a general discussion on biodiversity loss in the CHT, see Raja Devasish Roy, *Deforestation, Biodiversity Loss and Erosion of Land Rights of Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh* (unpublished, Dhaka 1993), hereafter Roy (Biodiversity) (1993).

[26] Van Schendel (1992), op. cit., p. 84.

[27] CHT Gazetteer, op. cit., p. 84.

[28] The author is indebted for this information to Arunendu Tripura of Rangamati who had extensive discussions on the subject with Tipra farmers in the northern CHT.

[29] CHT Gazetteer, op. cit., p. 83. See also Tripura, op. cit., pp. 99, 100.

[30] CHT Gazetteer, op. cit., p. 83.

[31] F. D. Ascoil (officer on Special Duty), *Report on the Administration of the Chittagong Hill Tracts* (1918), Chakma Raja's Archives, Rangamati, p. 14.

[32] Forestal Forestry and Engineering International Limited, *Chittagong Hill Tracts: Soil and Land Use Survey, 1964-66*, Vancouver, Canada (1966) (9 volumes), hereafter cited as 'Forestal'.

[33] Khisa, op. cit., p. 106.

[34] CHT Gazetteer, op. cit., p. 126.

[35] For the extent of the loss and damage inflicted by the Kaptai Dam, see: (i) David E. Sopher, *Population Dislocation in the Chittagong Hills* in 'The Geographical Review (New York)', Vol. LIII, No. 3, 1963; (ii) CHT Gazetteer, op. cit., pp. 42, 43; (iii) Hari Kisohre Chakma et al, Bar Parang, Dhaka, 1996.

[36] See for example the Indian dailies *The Statesman, The Telegraph, The Hindustan Times* and *The Times of India* of 11 January 1996.

[37] For details of the EPADC/BADC programme, see Raja Devasish Roy, *Land Rights, Land Use and Indigenous Peoples in the Chittagong Hill Tracts* in Philip Gain (ed.), 'Bangladesh: Land, Forest and Forest People', Society for Environment and Human Development, Dhaka (1995) (hereafter, Roy '(Land Rights, Land Use) (1995)', pp. 84, 85.

[38] See, Roy (Land Rights, Land Use) (1995), op. cit., pp. 84-89 for more details of their problems connected to market oriented horticulture in the CHT. See also Lorenz Loffler, Economy and Human Rights: Report on a short visit to Bangladesh and Rangamati (Chittagong Hill Tracts, Bangladesh), Zurich (1991), pp. 6, 7.

[39] The writer regrets that he has failed, despite his efforts, to identify the source of this information.

[40] For the *taungya* system of creating plantations, see CHT Gazetteer, op. cit., pp. 106, 107 and Webb and Reports, op. cit., p. 15.

[41] For further discussion on the tree farming practice in the CHT, see Roy (Land Rights, Land Use) (1995), op. cit., pp. 89-93.

[42] For the problems faced by fruit gardeners in the CHT, see Roy (Land Rights, Land Use) (1995), op. cit., pp. 84-89.

[43] This section is based on on-site visits by the writer and discussion with indigenous farmers in the CHT.

[44] Khisa, op. cit., p. 69.

[45] P. K. Bhowmick, *Shifting Cultivation A Plea for New Strategies* in Majumdar, op. cit., p. 83.

[46] Tej Partap and Herold R. Watson, *ICIMOD Occasional Paper No. 23*, International Centre for Integrated Mountain Development, Katmandu, Nepal (1994), p. 11.

[47] R. N. Rai, *Management of Land and Water Resources of Jhum Affected of North Eastern Region*, in Mahajan, op. cit., pp. 127, 128; R. N. Prasad, A. Singh & Arun Varma, *Shifting Cultivation and Land Degradation* in Mahajan, op. cit., pp. 145-147.

[48] Sopher, op. cit., p. 339; Khisa op. cit., pp. 12, 13.

[49] See, for example, CHT Gazetteer, op. cit., p. 104.

[50] Loffler, op. cit., p. 2.

[51] Roy (Forests) (1996), p. 7.

[52] See, for example, Webb and Reports, op. cit., p. 19.

[53] For the problem of dispossession of indigenous people's lands by government-sponsored non-indigenous settlers in the 1980s, see Raja Devasish Roy, *The Problem of Lands of Indigenous People in the Chittagong Hill Tracts by Government- Sponsored Migrants: In Search of a Solution;* paper presented at an Open Dialogue and Seminar on the 'Chittagong Hill Tracts Problem and its Solution', organised by the national Committee for the Protection of Fundamental Rights in the CHT, at the German Cultural Centre, Dhaka on 2 June 1995. See also Rajkumari Chandra Kalindi Roy, *Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh*, Jumma Peoples' Network in Europe (JUPNET), 1996 for the land dispossession problem and generally. This report on the land rights situation in the CHT is probably the most extensive study on the land rights of the indigenous peoples of the CHT to date.

[54] See, p. 7, supra.

[55] These village forests under common ownership are recognised, and encouraged, under rule 41A of the CHT Regula-

tion of 1900 although the villagers' title to them are not formally acknowledged.

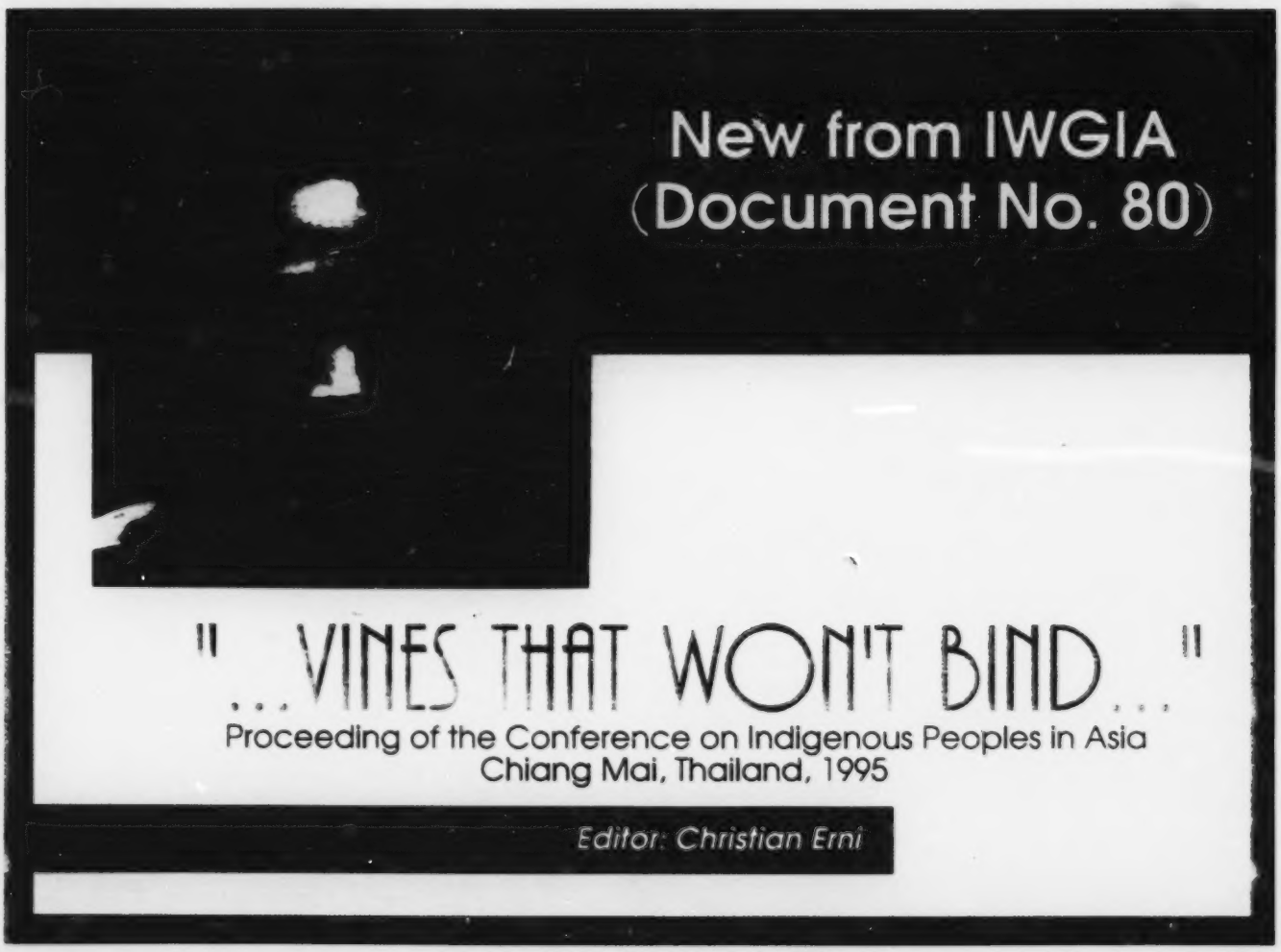
[56] Kabita Chakma and Glen Hill, *Thwarting the Indigenous Custodians of Biodiversity* in Gain, op. cit., p. 127.

[57] The author is grateful to Tuku Talukder of Rangamati for the above information. Although the consistent presence of these flowers in jum fields was well-known to the writer, he was not aware of the nitrogen-fixing qualities of these flowers as is the case with even some swidden farmers themselves, who plant them nowadays largely out of aesthetic considerations and tradition.

[58] Chakma and Hill in Gain, op. cit., p. 127.

[59] The author is indebted to Loffler (op. cit., p. 9) for the information on the contribution of the swidden cultivators of the CHT to the muslin inheritage of Bengal. Unfortunately this contribution is not acknowledged in popular versions of the history of Bengal and Bangladesh.

[60] Chakma Salil Roy, *The Economic Problems in the Chittagong Hill Tracts and their Solution* (in Bengali) in Sushamoy Chakma (ed.), 'Bijhu', Dhaka (1979), pp. 7-24. ❑



Lessons from the Canadian experience

By Peter Jull

'Regional agreements' are talked about in Australia as a possible approach to native title, but few people know what they are.

Regional agreements have emerged in outlying parts of North America similar to northern and outback Australia through negotiation between indigenous peoples and government. They are a package of land and sea rights, including full ownership of some areas and substantial management of, and benefits from, the larger area traditionally occupied or used seasonally by indigenous people.

In the package are statutory bodies composed of indigenous and official delegates who decide development and planing issues, including land sea species management and environmental protection. Also included are assistance and funds for indigenous development, plus training and employment opportunities and powers for indigenous people to run their own affairs in health, education, social assistance, community infrastructure, etc.

The most important outcome is that government legislates agreements into national law to provide real security for indigenous people. Security allows them to participate as equals in the white man's world, something official social programmes and anti-discrimination law did not achieve.

The 1975 James Bay and Northern Quebec Agreement was Canada's first. It had many problems in practice, requiring improvements later. Australians often assume Canadian indigenous law is more developed. However, indigenous rights were ignored or trampled in Canada by governments until the 1960s. In Canada, as in Australia, changing public attitudes, international pressure, indigenous activism and surprise decisions by the highest court brought change.

Fears about native title in Australia today are familiar to Canadians, who had the same debate after the 1973 Calder decision which, like Mabo, gave new legal recognition to old concepts of indigenous rights. As Canadian historians and Australian's Henry Reynolds have shown, British governments and sometimes our settler ancestors acknowledged more indigenous rights than we now remember.

Canadian regional agreements are not a gift from kind governments. They result from many conflicts between those wishing to develop oil and gas, hydroelectric power, mines, shipping routes over land or sea and other projects and indigenous peoples who use the same areas for food and livelihoods.

In the 1970s battles between indigenous peoples and industry raged across northern Canada, with provincial and territory governments siding with developers and the federal government now on one side, now the other. Over time Canadians wanted solutions.

Australians have been looking at the Canadian experience and drawing their own conclusions in the books like *Regional Agreements* by Richardson, Craig and Boer, published by the North Australia Research Unit in Darwin, or in *Indigenous Social Justice*, published by Aboriginal Social Justice Commissioner Mick Dodson in Sydney, both published in 1995. Two conferences in Cairns produced important material published as *A good idea waiting to happen* edited by Harris (1995), and *ATSIC Regional Agreements Seminar, 29-31 May 1995*.

The first modern regional agreements were inspired in part by the failure of Canadian and American Indian treaties of the past. The new agreements are now often called 'treaties', or 'modern treaties'. These are so successful that the Royal Commission on Aboriginal Peoples, in its marathon work concluded late last year, recommends all Canadian indigenous programmes and policy be turned into regional agreements enabling ancient peoples to be again self-governing peoples within the Canadian federation.

As Quebec Inuit leader Charlie Watt, who led the signing of the first regional agreement in 1975, often says, there have been many practical problems, but at least his people had gained the tools to work out their own solutions to problems. Indigenous people are no longer forgotten or marginal, but real participants in Canadian society. Presumably all this is what Australians mean by 'reconciliation'.

There is some irony in the Canadian agreements. Inuit and Indians were accused of trying to divide the country or separate in their native title struggle. Now the 1975 Quebec agreement is a key negotiating issue in keeping Canada together. The Inuit and Cree do not want their territories, more than half of Quebec, taken out of Canada. They have shamed many passive Anglo-Canadians.

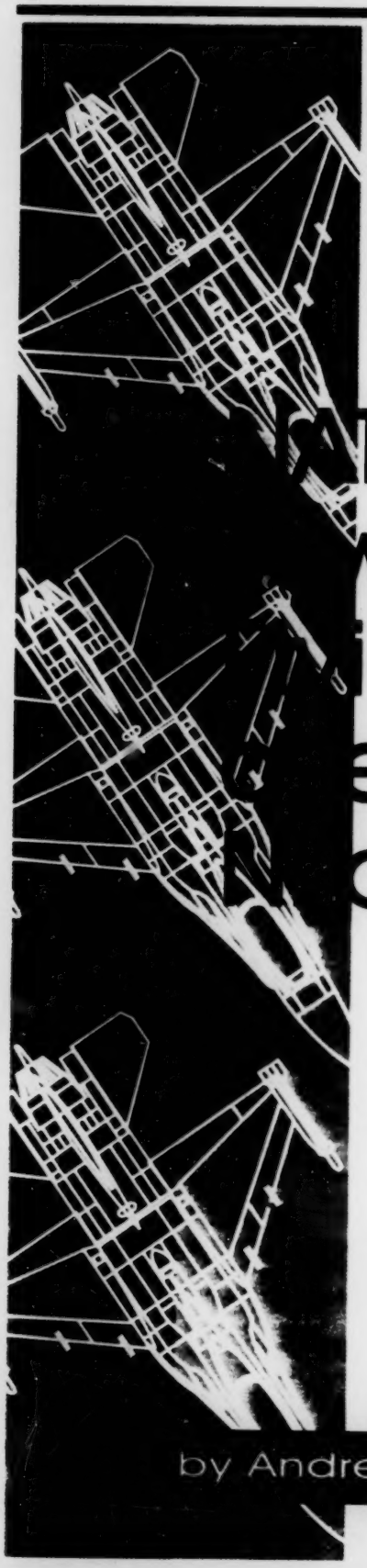
Tropical and Arctic coasts are similar. Around Cape York, Torres Strait, the Gulf and across northern Australia, like the north coasts of North America, Europe and Russia, indigenous peoples are defending their way of life against governments and industry.

If Australian grazing in indigenous territory, has been the main problem, Canada has the opposite. Seasonally migrating caribou (reindeer) are essential food for Indians and Inuit, but that animal is easily upset by noisy people working or travelling in planes or other vehicles.

Canadian battles over native title and development often involve suited ranks of expensive lawyers and red faced tycoons sitting grimly while an ancient hunter on his first and only trip south describes through interpreters to the judges how caribou or narwhals react to various nuisances of human and technological kind.

Most immediately, however, regional agreements are a means for indigenous people to begin to solve community problems which white police and paternalism will not and cannot solve.

Peter Jull is a member of IWGIA's advisory board. ❑



THE COLD WAR IS NOT OVER

TOs w-level ing er assinan

by Andreas Knudsen

The Innu Nation - Introduction

The Innu people have lived in the interior in what is now called northern Quebec and Labrador for more than 8,000 years. Innu means 'human being'. They are part of the Algonquin language family and closely associated with the Cree. There is often confusion between the Innu and the Inuit (Eskimo). The Innu are very distinct from the Inuit who inhabit the more northern, coastal regions of Labrador and Quebec, surviving on the maritime environment. Until recently, anthropologists called the Innu the Montagnais-Naskapi.

The nomadic life of the Innu people requires large grounds for hunting and trapping. A culture of hunters and trappers cannot be restricted to reserves. Innu history is encoded in the land around them. Every lake, river and mountain on the Quebec-Labrador peninsula has a name in the Innu language. Personal memories and tales connected with the religion and origins of the Innu people are linked to the land.

Compared to other First Nations in Canada, neither the Federal government nor companies showed great interest in the Innu's traditional land until the 1960s. Since then, Canadian and multinational companies' interest in timber, mineral resources, water power reserves and use of the area for military exercises has steadily been growing.

Review of the military activities

Although the Canadian, US and British Air Forces have been represented at Goose Bay since 1941, this article deals only with the period since 1980 because of the massive increase in number of military flights threatening the Innu's way of life since then. Furthermore, it must be stres-

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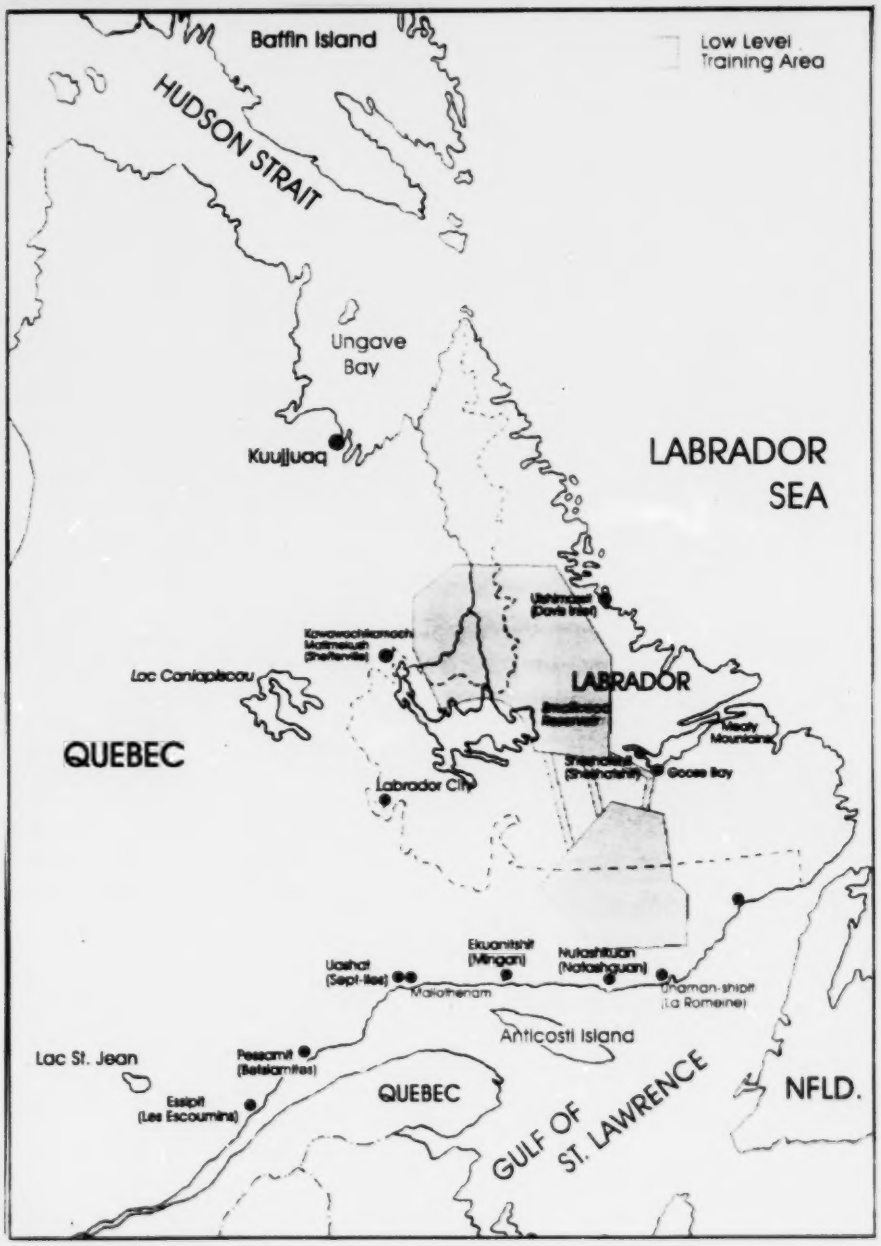

sed that the sorties and exercises are not NATO flights, but flights by NATO countries based on bilateral agreements with Canada.

Since 1980, the focus of the flight training shifted to specifically offensive low-level flight manoeuvres frequently bringing the jets, and their noisy engines, to within 100 ft (30 metres) of the ground. The low-level flight exercises stem directly from the modernisation of air armaments and the matching radar technology. Scattered over the land are two bombing ranges and 68 camera targets. The manoeuvres include ground-level combat practice, forward firing weapons and the dropping of thousand-pound dummy bombs. As a sad result, the original bombing range is now covered with moon-like craters and littered with bomb casings. These exercises were held above the surrounding area, a vast, thinly populated taiga landscape, inhabited by a traditional hunter and gatherer society: the Innu people.

In 1980 the scale of training increased dramatically, so that by 1990 the Netherlands, Germany, and the UK, were combining to fly 6,000 to 7,000 sorties from the base over traditional Innu territory during the annual seven month flight season. The sheer number of sorties turned out to be an environmental problem and warranted the project be subject to environmental review.

In 1986, bilateral agreements, signed between the governments of Canada, the United States, the UK, Germany and The Netherlands laid the formal legal basis for the use of unceded traditional Innu territory for the following ten years. Other countries such as the US (stopped), France (only 1996), Belgium (since 1996) and Italy (stopped), have also used the base for training from time to time.

According to NATO's military strategy, pilots need training in order to be able to fly below a potential enemy's radar system. Therefore, most low-level flying occurs in a 'Low-Level Training Flight Area' located in Labrador and Quebec, north and south of Goose Bay. However, the flight training does not take place in a 'helter-skelter' manner but is concentrated in lake areas, marshes and river valleys and overlaps extensively with important Innu hunting territory. In addition to that, the exercises are quite dangerous not only for the environment but also for the pilots. Several accidents happened, e.g., two Dutch jets crashed as a result of a mid-air collision in May 1990.

On 1 May, 1995, Canada conditionally approved an increase in the number of annual military training sorties from 7,000 to 18,000, including 15,000 low-level sorties. In addition to that, the flying area is due to be enlarged from the original 100,000 to 130,000 square kilometres with additional bombing ranges. In February 1996 a new ten-year MMOU (Multinational Memorandum of Understanding) between Canada, The Netherlands, Germany, and the UK was signed. The Innu president Peter Penashue commented on the signing with the words, 'It's a sad day for the Innu and Canada.'

The Netherlands signed a new agreement on 24 December, 1996, but the Dutch low-level flying exercises will be discontinued until Parliament signs the MMOU. This is expected to take place in spring 1997.

The Canadian government regards the leasing out of the airspace to other NATO

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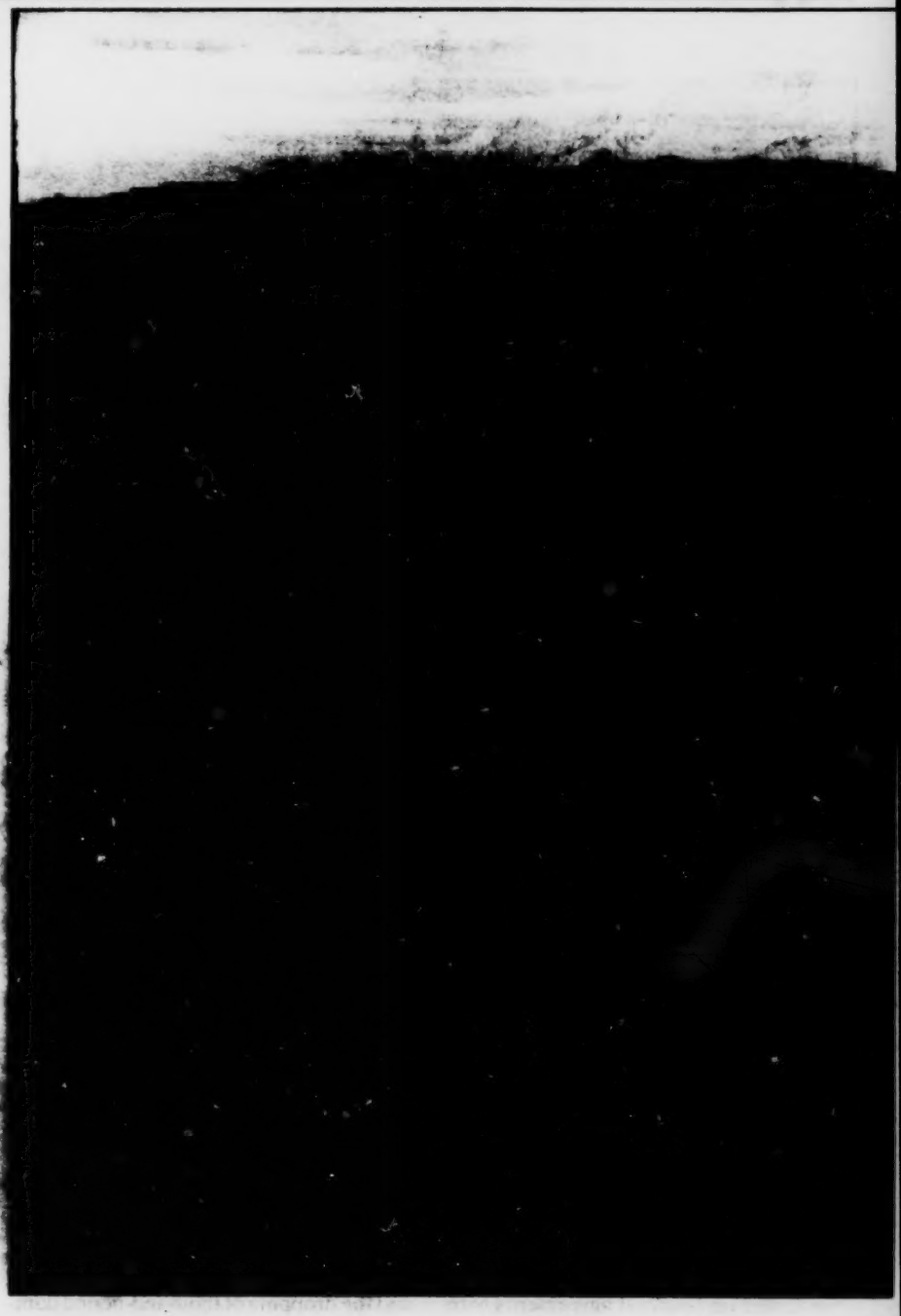
countries as its contribution to the common defence policy. At the same time the incoming European leasing payments saved the Canadian taxpayers a part of the money necessary to run Goose Bay. In this way the cancellation of a planned NATO Tactical Fighter and Weapons Training Centre ([N] TFWTC) because of a change of NATO strategy and the end of the Cold War was a blow to both the Canadian Federal government and the Province of Newfoundland's governments common strategy of creating more jobs by militarising an underdeveloped area.



Negative impacts on the environment

This article can only provide very basic information concerning the evidence of negative impact on wildlife that may result from exposure to military aviation.

The Labrador peninsula is full of breeding grounds for caribou, beaver, ducks, geese and other migratory waterfowl. Low-flying aircraft can cause injuries or death to such animals due to stampeding causing broken limbs, abortions of pregnant animals, smothering of intensive poultry caused by panic in broiler and laying sheds, loss of milk yield, loss of egg yield, broken eggs and blood in eggs, and the provocation of stress-induced diseases such as Mareks disease in poultry.

However, even in locations where low-flying activities are common, there are particularly sensitive times of the year when caribous are most vulnerable. This is particularly true during calving seasons when both the pregnant animals and newborn animals are more easily frightened by sudden noise and movement. In the following some examples will be mentioned as to how low-level flights impact on wildlife.

In 1981 the biologist of the Canadian Wildlife Service (CWS) estimated that a population of approximately 500 black ducks had congregated at Snegamook Lake in 1980. But their banding efforts coincided with the beginning of intensive low-level flying by the West German Air Force using F-4 aircraft. An average of two flights took place each day. In 1981 the black ducks virtually abandoned the Snegamook delta site. The requests from the biologists resulted in a reduced number of flights in 1982-83 and the use of the site by black ducks increased to 200-300 in 1982 and 1983 but did not attain the higher levels observed in 1980.

CWS biologist Goudie conducted a series of aerial surveys of harlequin ducks in northern Labrador in 1987. The responses of female harlequin ducks to helicopter passes over the centre of waterways at an altitutde of 15-25m and at speeds of 110 kph were recorded. Goudie (87:3) noted that 'females without broods were found to flush readily on close approach by helicopter whereas hens with broods generally exhibited distraction behaviour.'

The impact on snow geese by aircraft was also studied during 1973 on the Yukon, Alaska, North Slope (Davis and Wiseley 1974). This study documented that

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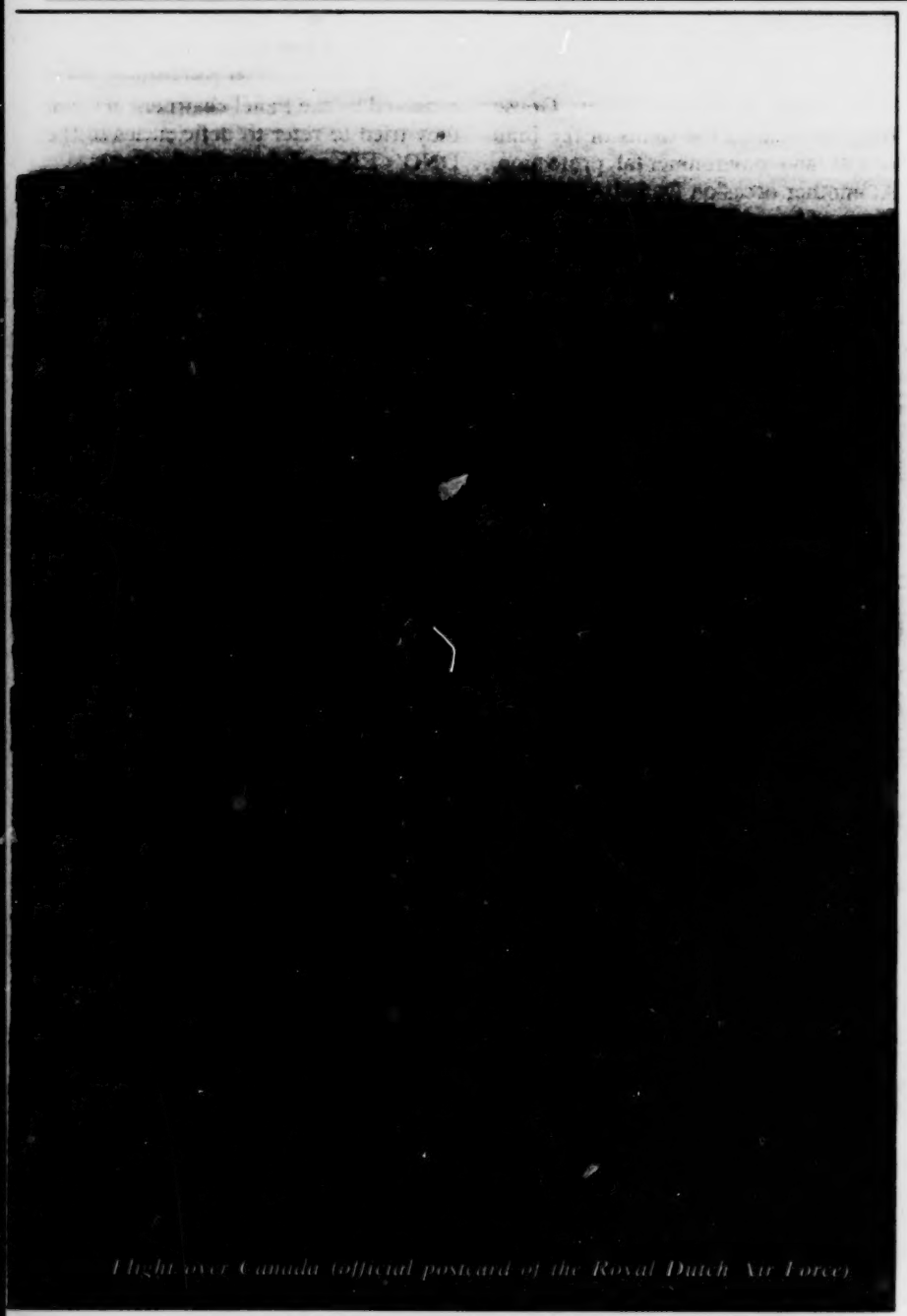

Flight over Canada (official postcard of the Royal Dutch Air Force)

while feeding to gain fat reserves for the winter, snow geese were disrupted by aircraft flights over the area. The authors concluded that this loss of feeding time could not be compensated for and could result in a large reduction (approx. 20%) in energy reserves.

In 1987 and 1988 Dr Fred Harrington of Mount Saint Vincent University and Alasdair Veitch of the University of Alberta conducted a study of the impact of low-level military flight training on caribou from the Red Wine Herd. They pointed out that the calving period is a critical one in the caribou's life circle and disturbance during this period may result in still births, injuries, or cow-calf separations.

Reduction in feeding rates, movement to insect relief habitat at the expense of forage quality, the energetic costs of insect avoidance behaviour and simple loss of blood may increase the calf's susceptibility to other stress factors during the summer insect period.

Harrington and Veitch concluded that calf survival is negatively correlated with exposure to low-level flying, which indicates that already the level of training activity of the 1980s may have reached a height where negative impact on calf survival will become noticeable. 'Together, the impacts of predators and disturbance from low-level training activity may be preventing the recovery of the Red Wine population, despite over 15 years of protection from human hunting' (Harrington and Veitch 1992).

Innu hunters have observed changes in caribou migration patterns, ptarmigan and fish that die for no apparent reason and a lower beaver birth rate. They speculate that military aircraft may somehow be responsible for these changes.

The case of a fox farmer from Chatham, New Brunswick, supports those speculations. The Canadian Department of National Defence (DND) had to pay a $45,000 settlement to compensate for damage caused by military aircraft. According to the farmer's claim the flight of a CF5 jet aircraft on a training mission in March 1988 disturbed his foxes to such a degree that the females ate their newborn kits and pregnant foxes aborted their fetuses.

In 1986, as a result of public pressure, the DND agreed to subject the flight training to the federal Environmental Assessment Review Process. Up until then no research into the impacts of military aviation on people and wildlife in Quebec-Labrador had been conducted by the Department. In October 1989 the DND submitted a $6 million environmental impact statement (EIS) to the Environmental Assessment Panel. During the next few months technical advisors to the panel, interveners and independent experts strongly criticized the EIS, and it quickly earned the reputation of being the worst EIS in the history of Canadian environmental review. In May 1990 the environmental assessment panel issued a hefty 38 point deficiency statement requiring the DND to return to the drawing board to correct the serious problems in its EIS.

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Since the late 1980s the DND's Avoidance Mitigation Strategy for low-level exercises over noise sensitive areas were launched. This programme entails flying over areas with Innu, Inuit, settler and sportfishing camps as well as nesting, moulting and staging areas for migratory waterfowl, caribou and moose concentration and trapping areas at an avoidance radius of 2.5 nm. The avoidance radius provides Innu women and children who rarely travel more than that distance from the base camps with some protection form flights, but it does nothing to protect either hunters who in general travel far greater distances away from their camps or the animals that live elsewhere.

It quickly turned out that the huge number of 'hot spots' would it make impossible or at least very difficult for the allied air forces to fulfil their exercise programmes. Even with the minimal avoidance restrictions in place, the allied air forces are complaining. For example, in December 1991 RAF Wing Commander Erskine told Happy Valley-Goose Bay newspaper, The Labradorian, that there could come a time when the restrictions may outweigh the positive aspect of Goose Bay. 'We've got to see how things pan out. Obviously, if more and more restrictions are placed on us, there comes a point when there is no sense - we can't do what we want to, so there is no sense in being here.'

On 1 May, 1995, Canada conditionally approved an increase in the number of annual military training sorties from 7,000 to 18,000, including 15,000 low-level sorties. This decision was based on the February 1995 recommendations of an Environmental Assessment Panel that was commissioned to report on the impact of the low-level military flying. Despite the $10 million spent by the DND to study the impact, the Panel reported that there was uncertainty with respect to both the environmental and health effects of low-level flying and the effectiveness of the DND's avoidance programme.

The Panel also pointed out that these uncertainties, along with the social tension and polarisation around the project were such that a first reaction might be that the project should not proceed. Nevertheless, the Panel said that the economic benefits of the project to the largely non-Aboriginal community of 8,600 people in Happy Valley, Goose Bay, outweighed the rights of the Innu people and environmental protection. At another occasion Daniel Ashini, Director of Innu Rights and Environment, explained his point of view on economy: 'We find it very hard to understand a system which considers fully functioning forests to be 'wasted' and clearcuts to be good for the economy. Economies are just small parts of cultures, and even when they deny it, cultures are ultimately just small parts of ecosystems. The biggest mistake that human beings can make is to believe that they can reverse this natural order and make everything and everyone subordinate to 'the economy'.' (For economic interference between the DND and the local non-aboriginal population please, also see the Chronology, 1986.)

During the hearing process of Environmental Assessment Review in 1995 various problems occurred which led the Innu Nation to withdraw from the process because they did not wish to become a fig-leaf for a priori found testimony to the sustainability of low-flying exercises. In the following a few examples will serve to illustrate how the hearing process was timed.

- The Panel conducted the hearings in extreme haste, starting on 19 September and ending on 29 October. This forced the Panel members to assimilate and understand a large quantity of extremely technical data and analyses. A question mark regarding their capability to do it well remains.
- The Panel scheduled public hearings in Innu communities when most Innu affected by the training were at their country camps hunting, trapping and fishing. Therefore, e.g., no one appeared before the Panel in St Augustin because the Panel had chosen the one time of the year when the men most interested in the training were away moose hunting.
- Innu groups were denied the ability to cross-examine DND officials and technical experts so as to properly discover underlying assumptions and data gaps in the DND's arguments.
- The Panel chopped its roster of technical experts from 22 to 7, thereby depriving itself of independent technical expertise in many crucial areas. Some of them, e.g. Ms Carol Brice-Bennett, were censored by the Panel chairperson when they tried to refer to deficiencies in the DND's EIS and the review process.

Based on this background it is hard to believe that all those circumstances are pure coincidences.

> *The DND would like the world to believe that the environmental review process that gave the green light to expanded training was fair and objective, but we have shown the process to be stacked in favour of the DND. The Innu withdrew from the process when it became clear that the Environmental Assessment Panel would not give them a fair hearing.*
> *Innu Nation president Peter Penashue in refence to environmental impact of the low-level flying exercises on 20 February 1996.*

Because of the environmental uncertainties, the Panel recommended and the Canadian Cabinet approved the establishment of an institute to monitor the military flight training and to gather more information about the environment including Aboriginal land use. The institute does not make decisions but only recommendations to the DND and the Minister of Environment regarding these matters. The Innu do not oppose the existence and work of the institute but have several demands for its function and responsibilities. First, the institute must be a regulatory agency with the power to make decisions instead of the DND 'which is the unabashed proponent and self-serving international sales agent for ever increasing levels of low-level flying.'[1] Second, the institute should not work according to the philosophy 'of let's see what happens' because this adaptive management runs contrary to protection of the environment. Third, the Innu want to have an important decision-making role in the Institute according to their rights protected by Section 35 of the Canadian Constitution. Fourth, the low-level flying level must be frozen at the level of the first MMOU. Finally, the increase of the level of sorties must be connected with a comprehensive rights agreement between Canada and the Innu Nation. Although the institute's current

working method is far from satisfying the Innu's demands, the Mamit Innuat and Innu Nation participate in its work on a trial basis for six months. Considering the fact that without their participation they would leave the environmental mitigation of the flying training entirely to the DND, they had no real choice and decided that it would be better to be inside than outside.

Changes in the social and cultural life of the Innu

In the 1950s and '60s, both the Federal government and the provincial governments carried out a policy of assimilation of the indigenous peoples. At that time most Innu still lived as hunters and trappers like their ancestors. By the end of the 1960s Innu from Labrador were forcibly settled into the communities of Sheshatshiu and Uthimassit. Innu parents were threatened with the committal of their children into a school board far away from home and punished when they did not put their children into local schools and instead of attending school went into the bush. The settlements were accomplished by Catholic priests, who had a great deal of influence over many Innu. After the Innu settled peremanently in villages, they became 'projects' for the work of well-being, but misguided authorities which were not aware of the needs of a hunter's life and the consequences of changing the way of life from independent hunter to settled, dependent client.

Today there are 10,000 Innu who live for most of the year in 11 villages along the north shore of the St. Lawrence River and in two Labrador communities.

I was one of the first generation of Innu children born in the community. When I grew up, Sheshatshiu was a place where you could find every sort of social problem such as alcoholism, family violence and sexual abuse. In school we were told that we had to become educated, become modern. We were told that the old ways were dead, and at the time, it was easy to believe them. Very few people were going into the country, but many people had paid employment in the many make-work schemes that were going on at the time.

Since then, many things have changed. Many people have returned to the country living there permanently or at least for a part of the year. It is now a real pride to be regarded as a good hunter who is able to provide for their families in this way. In the bush, or nutshimit a s the Innu call it, their health and peace of mind are restored. Many Innu are concerned about losing their culture and identity as Innu people. Furthermore, flights over Innu camps and hunters have traumatised many children and elders.

The Innu Nation's legal position

It sounds absurd that a people, whose ancestors had been living on the Quebec peninsula for generations when the earliest European explorers arrived at its shores, has to give arguments in support of its inherent, traditional rights to this land to the descendents of those explorers and to use their terms and formalities. In general the early treaties between European colonisers and the USA and Canada respectively confirms that the indigenous nations were sovereign powers, have or had transferable titles of some sort to the land in question and the acquisition of Indian lands could not be safely left to individuals, but must be controlled by governed monopoly.[2]

But the Innu Nation has never signed a treaty or the like that would give jurisdiction over its territory to the British or French Crown or Canada. In order to argue in Euro-American legal terms, the Innu Nation has to use the Royal Proclamation of 1763. This law describes indigenous nations as fully sovereign entities connected to England only by treaty. All future political relations including peace and arrangements for the sharing of land were to be accomplished by formal treaties. In principle, this position is still in power although shifting British-Canadian policies have gained more and more political and legal control over the indigenous nations. Canada, as Britain's legal successor, has taken over its obligations.

The ongoing negotiations between Canada and the Innu Nation are based on the Royal Proclamation. Furthermore, the Canadian constitution recognises under Section 35(1) the existing aboriginal and treaty rights. In addition, archeological and historical evidence and common practice of Federal and provincial authorities left no doubt that the Innu Nation has 'unextinguished land rights.' Section 35(3) of the Constitution provides that a treaty agreement between Canada and First Nations such as the Innu Nation will have constitutional protection which means that the rights acknowledged in those agreements cannot be violated by federal or provincial law or Federal actions such as entering a treaty with Nato partners.

This means that Canada is violating its own Constitution by entering into the MMOU with the UK, the Netherlands and Germany before it has concluded its negotiations with the Innu Nation which will determine whether in fact Canada has any right to give third party rights in Quebec/Nitassinan.

NATO partners are also violating the international human rights of the Innu by entering into the MMOU because they are prejudicing the outcome of the treaty negotiations between the Innu and Canada. This is a violation of many articles of the human rights convention signed by both Canada and its European partners.

Canada's partners argue that it would be interfering with the land's internal affairs if they questioned Canada's assertion that it has the right to grant permission to them to conduct the low-level flying. But, e.g., the United Nations declared at the occasion of the interventions in Somalia and Bosnia that under certain circumstances interfering in a land's internal affairs has a much higher value than national sovereignty. Furthermore, when the international community boycotted South Africa because of its internal apartheid policy, neither the Canadian nor the Western European governments questioned the legality of their decision. Provided that the international law is truly uniform, there is no difference between interfering in Canada's or Bosnia's internal affairs.

In light of available information it is shameful to observe that military exercises of questionable military benefit yet with serious consequences to the health of the Innu people and the environment have the power to destroy the cultural revival of the Innu. The stand of the Innu Nation is for the right to live in their home, free from the disturbances caused by foreign airforces. Low-level

training threatens their cultural identity by threatening their home which is the land where they live and which sustains them. They struggle for the basic human right to self-determination in one's own homeland, and seek international support in their defence.

Recommended literature:

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Henriksen, Georg. *Hunters in the Barrens, the Nascapi on the Edge of the White Man's World*. Memorial Univ. of NF: Institute of Social and Economic Research 1973. ISBN: 0-919666-00-0.

Wadden, Marie. *Nitassinan: The Innu Struggle to Reclaim Their Homeland*. Vancouver: Douglas and McIntyre. 1991. ISBN: 1-55054-001-7.

Edward S. Rogers and Eleanor Leacock: *Montagnais-Naskapi*: Handbook of American Indians. Volume 6. Washington: Smithsonian Institution. 1981. pp 169 - 195.

For more information please contact:

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The International Campaign for the Innu and the Earth:
148 Kerr Street, Oakville ON L6K 3A7, Canada, tel./fax: (905) 849 5501, e-mail: icie@web.apc.org

Friends of Nitassinan:P.O. Box 804 Burlington, VT 05402, phone/fax: (802) 425-3820
For Europe:*Foundation Innu Support Group*, P.O. Box 13670, 2501 ER The Hague, The Netherlands, tel.: (+31) 70 388 8553, fax: +31 70 4020943, e-mail: innusuppnl@gn.apc.org

Protest letters should be addressed to:
Jean Chretien, Prime Minister of Canada, House of Commons, Ottawa, Ontario, K1A 0A6
David Colenette, Minister of National Defence, House of Commons, Ottawa, Ontario, K1A 0A6
Sergio Marchi, Minister of the Environment, House of Commons, Ottawa, Ontario, K1A 0A6
Ron Irwin, Minister of Northern/Indian Affairs, House of Commons, Ottawa, Ontario, K1A 0A6

OVERVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES OVER NITASSINAN (QUEBEC-LABRADOR)

1941 Commencement of construction of airfield at Goose Bay

1952 20 year agreement signed with the US transforming Goose Bay into a support base for the Strategic Air Command

1957 RAF training with Vulcan Bombers commences and lasts until 1982

1978 Federal government accepts the Innu Nation for Comprehensive Claims Negotiations

1980 German Air Force training commences

Innu leader Greg Penashue opposes militarisation of Innu territory

1983 RAF training with Tornado GR1 aircraft commences

1984 October: Innu from La Romaine and Sheshatshiu start a nationwide campaign to stop military flight training over Innu territory

1985 The band councils of Schefferville, St. Augustin and Natashquan pass resolutions formally opposing military flight training

The DND builds practice bombing range near Minipi Lake

1986 Environmental Impact Study (EIS) starts;

13 February: New Multinational Memorandum of Understanding signed between the governments of Germany, the UK, the US and Canada. Belgium and The Netherlands carry out an test exercise.

13 May: Federal Justice Minister, John Crosbie, announces a federal/provincial grant of $140,000 to the town of Happy Valley-Goose Bay, Labrador North Chamber of Commerce, and Mokami Regional Development Association to establish a new organisation, the 'Mokami Project Group,' to promote military expansion. During its four years of operation, the group receives more than $754,000 to conduct public relations work for DND.

Several tours by Innu representatives throughout Europe and Canada to draw attention to their case;

November: International Human Rights Federation releases report criticising military flight training in Innu airspace

1987 Negotiations between Innu and government fails

April: Innu from Sheshatshit set up tents at the end of the Goose Bay runway to protest the resumption of low-level flying

Fall: Innu from Sheshatshit occupy the Minipi Lake bombing range, thereby halting practice bombing by the Bundesluftwaffe and RAF

1988 Protest camp established at the end of the runway of Goose Bay, Innu commence repeated civil disobedience marches on the runway, numerous arrests occur

1989 18 April: Judge James Igloliorte issues judgement dismissing charges against four Innu for civil disobedience actions at CFB Goose Bay. The judge accepts the Innu's 'colour of right' defence based on their belief of ownership of the land.

1990 February: Innu and their technical advisers hold a news conference in Toronto to critique DND's Goose Bay EIS.
March and April: In The Innu Nation's attempt to obtain a court injunction against military flight training is rejected.
Letter and fax campaign to NATO chiefs of staff and permanent military representatives, governments and opposition parties

1991 Innu commence comprehensive land claims negotiations with the governments of Newfoundland and Labrador

1992 9 January: Revised deficiency statement on the Goose Bay EIS issued to DND by the Environmental Assessment Panel, containing 29 deficiencies.
4-12 October: Four Innu travel to The Netherlands. They occupy the Volkel

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Ministry of Defence, Secretariat of Air Staff 2a, Room 8245, Main Building, Whitehall, London, SW1A 2HB, UK
Dr J.J.C. Voorhoeve, Minister of Defence, P.O. Box 20701, 2500 ES, The Hague, The Netherlands
Mr Volker Rhhe, Bundesverteidigungsministerium, Postfach 1328, D-53003 Bonn, Germany

Notes

[1] Innu Nation Press Release of May 23, 1995

[2] Glenn T. Morris: The International Status of Indigenous Nations within the United States. I use Morris' definition because of similiar British-Canadian practice - the author.

Air Base to increase awareness of this issue and are arrested together with over forty Dutch supporters. Innu woman and children occupy CFB Goose Bay runway and are arrested.
Without prior discussions, DND signs exchanging of letters with the German Minister of Defence, extending military flight training in Goose Bay for ten years. The Innu learn of the extension agreement from a local radio news story.
1995 The DND announces that the Belgian, French, and Italian air forces will commence a period of trail training The Federal environmental assessment review finally releases its recommendation. Although admitting the fundamental uncertainty regarding the overall impact of the training, economic rationales prioritised and the panel comes out in favour of doubling the number of flights and substantially increasing the size of the territory to be flown over. The Innu are outraged. Establishment of an Environmental Institute to monitor the impacts is recommended.
1996 Canada, the UK, The Netherlands and Germany sign a renewed MMOU for the next ten years.
12 October: Hunting camp nearby the Dutch air base Volkel. The protest aired on CNN and makes the front page of two Dutch newspapers. ❑

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Turning Adversity to Advantage: How Barabaig TANZANIA

TANZANIA

Introduction

It has been more than 20 years since the Canadian International Development Agency (CIDA) funded the Tanzania Canada Wheat Programme (TCWP). In that time over Can$ 200 million has been spent on developing a wheat complex covering an area in excess of 100,000 acres of the Basotu plains of north central Tanzania. This was in response to an expected increase in demand for wheat and with a view to assisting the Tanzanian government to become more self-reliant in food grains. However, despite significant yields and the supply of over half the country's requirement for wheat, the TCWP has not been regarded as an unmitigated success. In fact, it has been criticised on a number of grounds by both indigenous inhabitants and foreigners alike.

This article[1] will outline the background to the programme giving special attention to the problems of Barabaig herders who were displaced by it. The purpose is to bring the reader up to date with events and activities surrounding what has become known as 'the Barabaig land case'. At the same time it argues that out of adversity the Barabaig have been able to salvage something positive, not least in the registration of an organisation that will represent their interests and act as a vehicle for development support in the future.

Appropriation of the land

The Tanzanian partner in the venture was the National Agriculture and Food Corporation (NAFCO). It sought authority from local government to acquire 70,000 acres for seven farms to grow wheat. Later, this was expanded to over 100,000 acres without regard to Barabaig customary rights to land, due process of law, or with reference to local authorities (See Lane 1994 & 1996 for details of alienation process).

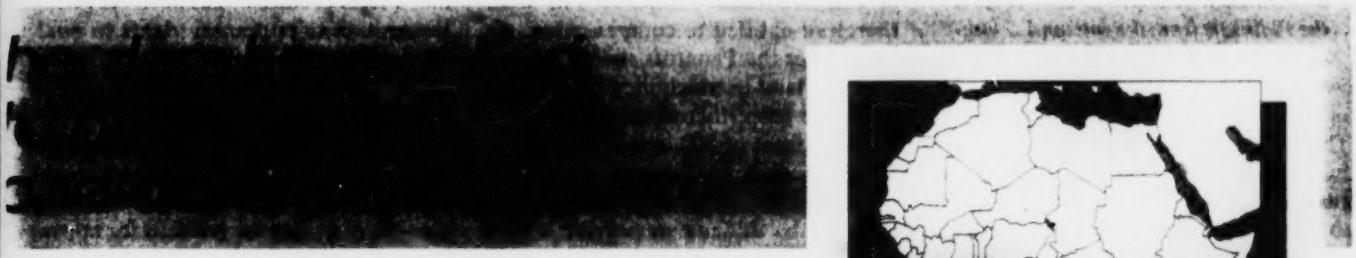
Not surprisingly, greatest attention was directed towards the more fertile 'wetter' patches of pasture land. The inherent fertility and treeless nature of what the Barabaig call *muhajega* land made it ideal for farming, and it is this land that was appropriated for the TCWP. The land in question had already been identified as 'highly suitable for mechanised dryland farming' (Fenger et.al. 1986), and subsequent trials showed that its inherent fertility was so high that yields did not respond to the application of fertiliser.

What was not so clearly understood at the time was that this same land was regarded by the Barabaig as their land and was very much valued by them for its productive capacity. In programme assessment reports the land was described as 'idle' and this perception was used to justify its acquisition (Young 1983). For the Barabaig who used this land it was anything but 'idle'. On the contrary, it formed the most important element in their grazing rotation - providing much needed forage for animal production and health after the deprivations of the dry season.

It was possible to regard it as 'idle' because it was only used at certain times of the year, and at other times was left free of human habitation. However, it was no less Barabaig land just because it was not always being used. This is because efficient use of scarce resources in a non-equilibrium environment requires that herders must move about the range. For the Barabaig to maximise production they need to be where land is most productive. Land which is not productive at a particular time is left to regenerate based on ecologically sound strategies for sustainable use of natural resources.

Making use of resources in this way requires a communal land tenure regime in which the group of land users has joint rights to use resources while at the same time determining who has access to what, when and how within the common. Experience in this case and many others like it elsewhere in Africa shows how notoriously difficult it is to defend communal lands from alienation because of the peripatetic nature of resource use, the fact that boundaries are not always clearly defined, and few easily discernable marks are made on the landscape (Galaty et.al. 1994).

This is compounded by a failure by decision-makers in government to understand the ecological rationale behind nomadism and the under estimation of the value of pastoral production. This has encouraged development planners to think that pasture land is underutilised and better put to non-pastoral use. The TCWP was a typical example of a centralised approach to the problem of food deficit in which the needs and aspirations of local people were excluded from an assessment of the impacts of



turning pastures into farm land largely for the benefit of urban based elites.

Land rights campaign

Much has happened to the Barabaig since the programme was first implemented. Much has also been made to happen by them. The far reaching consequences that arose from the alienation of the Barabaig from their land has been described in detail elsewhere (Lane 1996). In summary not only has the traditional Barabaig grazing pattern been transformed by the withdrawal of crucial grazing resources, indications are that this has had adverse environmental impacts and imposed economic and social costs on the Barabaig, including higher levels of infant mortality (Blystad 1992, Borgerhoff Mulder 1990), and the violation of their human rights.

Violation of human rights

The loss of access to so much *muhajega* land has not only denied the Barabaig access to their most productive resources and reduced their livelihood security, it also exposed them to gross violations of human rights. Some of those who were evicted from their homes had to endure such acts as house burning to ensure they moved out and did not come back. Where the Barabaig attempted to reassert their rights by re-entering their lands, they were regarded as 'trespassers' and harassed.

Human rights violations were acknowledged by the Commission on Violations of Human Rights in NAFCO Wheat Farms in Hanang District chaired by Justice Kisanga. The report noted that between 1970 and 1992 local people reported 149 cases of beatings, the demolition of 24 houses, the imposition of 77 summary fines, 83 rapes, and the desecration of 38 sacred sites. The Commission admitted that although they were unable to confirm the veracity of all the allegations made it was able to confirm 'there have been a number of incidents of evil acts or abuse committed by some NAFCO farm employees against some of the Barabaig who live in the neighbourhood of NAFCO farms'. According to the Barabaig these acts have been committed ever since they were first forcibly evicted from their lands and were probably inflicted with the tacit approval of some government officials and collusion of local law enforcement agents.

Legal challenge

The Barabaig first attempted to challenge the legality of land alienation for TCWP in a case brought by the residents of Mulbadaw village (*Mulbadaw Village Council & 67 Others* v. *NAFCO*—Civil Case No. 10 of 1981) claiming that neither local Barabaig nor the village council were consulted when NAFCO acquired land for Mulbadaw wheat farm - one of the seven TCWP farms. NAFCO did not deny acquisition of the land but claimed it had authority to acquire it as a parastatal body acting for the government in the 'public interest', and therefore procedures set out in the Land Acquisition Act of 1967 did not apply (Shivji 1995).

The High Court ruled in favour of the Barabaig by declaring that their customary claims were valid and proper legal procedures for acquiring the land were not followed by NAFCO. However, the decision was overturned on appeal (Civil Appeal No. 3 of 1986) because not all those Barabaig in court could successfully attest to the customary claims of those not in court, and of those in court, some were not regarded as 'natives' within the definition of the 1923 Land Ordinance and therefore unable to own land. This was a major setback to Barabaig confidencethat there was a remedy for their grievances. However, an increase in NAFCO aggression towards the Barabaig following the initial victory in the Mulbadaw case, together with the expansion of TCWP in the 1980s, particularly at Gawal, Gidagowmod and Waret farms, encouraged the Barabaig to go back to the courts in two more cases.

In the first of these cases the plaintiffs sought leave from the judge for a representative suit to include all of the affected community so as to avoid the problem encountered in the Mulbadaw case. The plaint drawn up by counsel acting for the Barabaig specified that NAFCO:

> *...did without licence, lawful justification or permission of the Plaintiffs, forcefully entered upon the suit land, set on fire and or otherwise destroyed*

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the homesteads of the Plaintiffs, caused destruction of crops, livestock and household chattels, and evicted the Plaintiffs from the suit land... without the mandatory procedures under the law...

The Barabaig wished to be declared lawful owners of the suit land by way of customary tenure, and the titles issued to NAFCO made null and void. They wanted an eviction order and perpetual injunction brought against NAFCO to deny entry to the land. They wanted restoration of grave sites, action to arrest soil erosion and protection of sacred locations, the restoration of traditional rights of way across the farms, the payment of damages to dislocated families, general damages and *mesne* profits of Tsh.100,000,000/- (currently only US$ 125,000, but nearer US$ 1 million at the time the plaint was lodged).

In his judgement the judge ruled that before the land was alienated it belonged to the Barabaig community, and as owners of the land they were illegally dispossessed by NAFCO because the requirements to acquire land to which customary title applied as set out in the 1967 Land Acquisition Act were not satisfied. He opined that 'a deemed right of occupancy [customary title] is as good as a granted right of occupancy [leasehold title]' which provides an important precedent for all customary rights holders in Tanzania.

However, the victory was limited by a procedural flaw. Despite leave having been granted for a representative suit under the 1966 Civil Procedure Code, the Plaintiffs' lawyers were adjudged to have failed to comply with Order 1, rule 8, sub-rule (1) to issue a public notice to *all interested parties* to the suit. Whilst a public advertisement was published in the major national newspapers, the judge ruled that it failed to address 'all interested persons', and should have included a list of all 788 names that were attached to the plaint. In addition, it was found that the list submitted to the court included people from areas other than Gawal, and some names were repeated. The judge found, therefore, that the suit could not stand, and he confined his judgement to the six Plaintiffs who appeared in court.

According to the judge, the Plaintiffs had 'suffered damage and loss as a result of the defendants trespass', and were therefore entitled to compensation. As to whether the Plaintiffs should receive back the land to which they have claim, the judge ruled that as this only represented a total of 300 acres, restoring it would result in small patches of private land being held within the farm, and as it would be difficult to provide access for livestock to come and go, he did not order restoration of the land but opted for provision of monetary compensation only.

On the basis of each Plaintiff's submission he ruled that specific monetary and cattle losses were not proven to the required standard and he therefore disallowed their claim. However, he accepted that three of the Plaintiffs were entitled to general damages relative to the size of families and the cost of relocation. This amounted to Tsh. 500,000, Tsh. 100,000, and Tsh. 50,000/- respectively. In addition an award of Tsh. 10,000 was made to the first Plaintiff as compensation for the destruction by NAFCO of his grandfather's grave.

These sums are paltry in the extreme, given the scale of losses and penalties suffered by the Barabaig from denied access to such a large area of fertile land. At the current exchange rate of approximately 800 Tanzanian shillings to the pound, the highest award of Tsh. 500,000 amounts to around US$ 1,000, and the lowest Tsh. 10,000 or only US$ 20! Although these sums are very small and the scale of tangible benefits to the Barabaig that have come from the case might seem insignificant, it must be remembered that an important legal precedent has been attained that should enable herders in Tanzania to have greater security of ownership of their communal lands that they rely on for their livelihoods.

There is conjecture that the judge took the opportunity to rest his judgement on a procedural point so as to avoid making a ruling that would severely embarrass the government and require the return to the Barabaig of the Gawal farm land. A similar predicament for the government was averted in the Mulbadaw case when the judge rested the case on the issue of nationality. Perhaps it is too much to expect a total victory in the circumstances, and perhaps it is enough that a legal precedent has been set giving recognition to customary rights to land. However, an important battle remains to ensure these rights are defendable against continued arbitrary alienation.

The first action taken by lawyers for the Barabaig on hearing the judgement was to request leave to appeal. Although at the time of writing the grounds for appeal have yet formally to be issued, it is understood that they relate to the following points:

(I) Having ruled that NAFCO had trespassed, the judge misdirected himself by not revoking the farm title-deed and granting the land back to the Barabaig. By not doing so he was in effect legalising NAFCO's trespass.

(II) The judge failed to see the gist of the Plaint for a claim of customary rights, and by reducing the issue to measurable property he was ignoring the reality of pastoral land tenure in which a community has rights to resources in common.

(III) As the damages claimed were not specific, the court must have misled itself by demanding a list of those (788 persons attached to the Plaint) who would be represented, and further general damages should have been awarded to the whole community as the losses were not sustained by an individual, but relate to the means by which a community can survive and its culture persist.

(IV) Even if the judge was correct in his ruling, the *quantum* damages were pathetically small as they failed to reflect the real value of losses to the Plaintiffs.

The state strikes back

During court proceedings an attempt was made by government to undermine the case and avoid being forced to return the farms to the Barabaig (Lane 1994). The government exercised its executive authority by trying to extinguish Barabaig customary claims to the land in dispute. This was done by issuing an amendment to Government Notice 659 (Extinction of Customary Land Rights Order of 1987) extending the extinction to include all those villages affected by the NAFCO farms. To cover the Barabaig case it was made retrospective to the date of the original Government Notice (No. 88 of 13/2/1987), thus pre-dating the lodging

of the Barabaig plaint. This gave NAFCO the opportunity to declare 'no case to answer' as the Plaintiffs would have had no rights to declare. However, the judge ruled that the Government Notice did not apply as NAFCO had acquired Certificates of Occupancy to the disputed land at a date that preceded the attempted extinction.

The Government Notices were issued under the Rural Lands (Planning & Utilisation) Act of 1973 that empowers the president to declare a 'specified area' subject to the 'extinction, cancellation or modification' of deemed rights of occupancy (customary title) by the minister for lands. However, there is no evidence that the area concerned was ever 'specified', nor that the prime minister can be regarded as the minister responsible for lands within the meaning of the Act. According to Tenga (1992), the Act itself could be challenged as being in breach of the Bill of Rights which is now part of the Constitution. Shivji (1994) suggests further that the Notices are contrary to the provisions of both the 1973 Act and of the 1923 Land Ordinance recognising customary rights to land.

With greater political liberalisation in Tanzania, a multi-party democratic system, and a burgeoning free press, it is not surprising that land holders, whose customary rights have been infringed by state appropriation, have begun to challenge the government in the courts. Indications from early cases are that the courts will rule in favour of customary title holders (Tanzania 1994). In response to this prospect, and failure of the Government Notices, the state has taken an extraordinary step to undermine this challenge.

The prospect of courts forcing the government to undo the fabric of the new village land tenure has prompted a most radical measure being taken. A quite extraordinary legislative instrument was devised setting out to extinguish all customary rights to land in all villages in the country incorporated between 1970 and 1978 (Regulation of Land Tenure (Established Villages) Act 22 of 1992). This Act extinguishes customary rights in land, prohibits the payment of compensation for such extinction, ousts the jurisdiction of the courts, terminates proceedings pending in the courts and prohibits the enforcement of any court decision or decree concerning matters in respect of which jurisdiction was ousted.

The timing of the Act provides evidence of the government's dismissive attitude towards customary rights and informed legal opinion. It was presented to the Bunge (parliament) only days before the Report of the Presidential Commission of Inquiry into Land Matters was submitted to the president. It is unlikely to be a coincidence that legislation making fundamental changes to land law would be tabled in advance of a Commission's report whose task it was to consider such matters and make recommendations to the president. Logic would suggest that under normal circumstances the findings of the Commission should inform any new legislation.

The reason for this inconsistency could lie in the disparity of view that underpins the two documents. It is probable that those who wished to continue capitalising on the chaos already created by villagisation, titling and land use planning processes to acquire customary lands for commercial purposes, wanted to pre-empt the Commission's recommendations that include recognition of customary rights to land, the involvement of traditional leaders in the registration of titles and the abolition of existing legal and administrative provisions that treat customary rights as inferior to statutory rights of occupancy.

Fortunately for the Barabaig, in the case *Hon. Attorney General* v. *Akonaay and Lohay* the judges ruled that Act 22 was in contravention of the Constitution (Civil Appeal No. 31 of 1994) on two major grounds: customary rights to land were held to be real property under Article 24 of the Constitution, and as such are protected from forfeiture without fair compensation under Sub-article (2); and under the doctrine of Separation of Powers enshrined in Article 4 of the Constitution authority of the courts cannot be ousted. However, the Appeal Court judges declined to rule that all provisions of Act 22 were null and void, leaving a statute on the books without those sections that were found unlawful. It remains to be seen how the government will react to this judgement. The choices are few; it can either leave this Act without the provisions that can ensure it achieves its original purpose, repeal it, or attempt to amend it within the constraints of the judgement. In the context of current deliberations surrounding the formulation of a new National Land Policy it is likely that a new Basic Land Law will be drafted to accommodate policy objectives and also rationalise the existing numerous and sometimes contradictory land laws.

International campaign

Despite limits to legal remedy and government efforts to thwart Barabaig land claims, there have been some positive outcomes and a number of important initiatives have arisen from the process of challenging the government in this case.

The Barabaig chose to conduct an international campaign in defence of their rights. This resulted in a wealth of printed material and a response from the Tanzanian government that has already brought tangible benefits to the community in terms of investment in social welfare (schools, provision of domestic water points etc.). Some of the main features of the campaign were:

(i) Publication of an 'Open Letter to the Canadian People' in Canadian publications (See Paavo 1989, Lane 1991).

Open letter to the Canadian people, 15 February 1989

We, the Barabaig of Tanzania, are a poor and troubled people. We are a pastoral minority dependent on our livestock for survival. Every day we strive to sustain our herds and secure a better future for ourselves and our children. We are few in number and live in scattered communities. We have little political power. We have struggled alone against great odds for many years. Few people understand our plight or are willing to help us. Our problems are great. We have failed to overcome them. We are asking for your help.

We live close to the land. It is an arid land where droughts are common. Many of our children suffer deprivation and die for want of better health care. Our livestock die also from lack of veterinary services. Our womenfolk walk many miles for

water. They grind maize by hand using stones. Many of us are illiterate. Few people visit us to hear our problems and attend to our needs. Some of our leaders have tried to help us. However, not enough is being done to support our development compared with other Tanzanians.

Traditionally, we live on the plains that surround Mount Hanang in Hanang District of Arusha Region. We have done so for well over a hundred years. Here, we build our homes, herd our livestock, cultivate our plots and live our lives. In colonial times we had our own Barabaig Native Authority and Chief. At that time we cleared the land to control the tsetse fly. Today we burn the pasture to control ticks and improve the grazing. Some of the land is sacred. Our esteemed elders are buried here in graves that are tended and visited for generations. We value and respect the land. We want to preserve it for all time.

Our herds need forage, water and salt. Our land has all these things. Without them we cannot survive. From as long ago as we can remember our land has been taken from us. People are continuously moving in to grow crops on our pastures. They take the best land which we rely on to sustain our herds. The loss of this land has resulted in the drastic reduction of our livestock and a decline in production that cause us great suffering. If our land continues to be taken we shall have to move away or perish. The choices for survival are few; either we accept the risks and hardships of migration or go and become paupers in the towns.

The largest tracts of land being taken from us are for the cultivation of crops. The government has taken more than 100,000 acres for a wheat scheme. The decision to take this land was made by non-Barabaig leaders. Official approval for this was given without our consent. We were just told the project needed the land and we would have to move. We have not been compensated for the loss of this land. A little was paid to some of us, but only for the loss of housing, which has been offered too late, to too few people. To date, no effective provision has been made for those dispossessed to go anywhere else to live.

Canada, through its aid programme (CIDA), has been involved in the Tanzania-Canada Wheat Project for twenty years. In that time Canadian aid in partnership with Tanzania's National Agriculture and Food Corporation (NAFCO) has established a vast wheat-growing complex on the Hanang plains. The original plan was to cultivate seven farms of 10,000 acres each, totalling around 70,000 acres. This is the area we were told we would have to give up. Now we find NAFCO has obtained titles to more than 100,000 acres, 30,000 acres more than we had been advised. This was prime grazing land. We can ill afford to lose such a large area of pasture.

The growing of wheat on what was once pasture is destroying the environment. By stripping away the vegetation cover with mechanised cultivation, the soil is laid bare to be carried away by flash floods, creating deep gullies and silting up water sources and our sacred Lake Basotu. The area of land we were left with is generally less fertile and too small for our needs. It is becoming denuded by overgrazing. The vegetation has changed, making pastures less productive than they were before.

Widespread human rights abuses are associated with the conduct of the project. When moving us, NAFCO have sometimes burnt us out of our homes without warning. In this way some people have lost all their possessions, including their food reserves. At other times they have ploughed around the homestead, making it impossible for us to come and go freely. When attempting to reach pasture, water or salt by following traditional routes across the farms, we are deemed trespassers and subjected to beatings and fines. We find it hard to resist this harassment as NAFCO call on the police and militia to enforce their will on us. Many of the graves of our elders have been ploughed up and are no longer recognisable. These sacred sites are very important to us as places of worship. It is there that we make offerings and call on God's blessings through the medium of our ancestors. This desecration is like the deliberate destruction of a church and graveyard in a Christian community in Canada.

Without success we have appealed in the past for help from our national leaders. We have asked the Canadian project staff and the Canadian High Commission in Dar es Salaam to help us. Despite their expressed concern, little has changed for the better. In fact, the situation has gotten worse. Cultivation of disputed land continues, beatings and fines continue. Some of the rights of way that were left open have now been closed completely. Lately, NAFCO have chosen to obtain Certificates of Title to the farms which exclude the two vital conditions for the provision of rights of way and the preservation of graves.

In 1984 the villages of Mulbadau contested the taking of our land by NAFCO. The case succeeded in the High Court, but was overturned on appeal. It was ruled that the village did not have title to the land at the time it was taken from them. Individual claims to customary rights to possession of land, as recognised in law, were also denied to those few plaintiffs who testified in court as they happened to be of Somali origin and were thus not classified as 'natives' with rights to possession of land in Tanzania.

Because of the continuing abuses of our rights, and the fact that the broader question of whether we have customary title to the land we occupied is still unresolved, we have decided to go back to the courts. We contend that NAFCO failed to adhere to the due process of law in acquiring this land and are thus trespassing on the extra 30,000 acres. We are demanding full compensation for the loss of the land, the destruction of our homes and the desecration of graves. We want restoration of traditional rights of way that will allow us to reach grazing areas, water and salt as before. We want to establish once and for all that the indigenous pastoral communities have customary rights to

the land they occupy so that their future livelihoods may be protected by the law of the land.

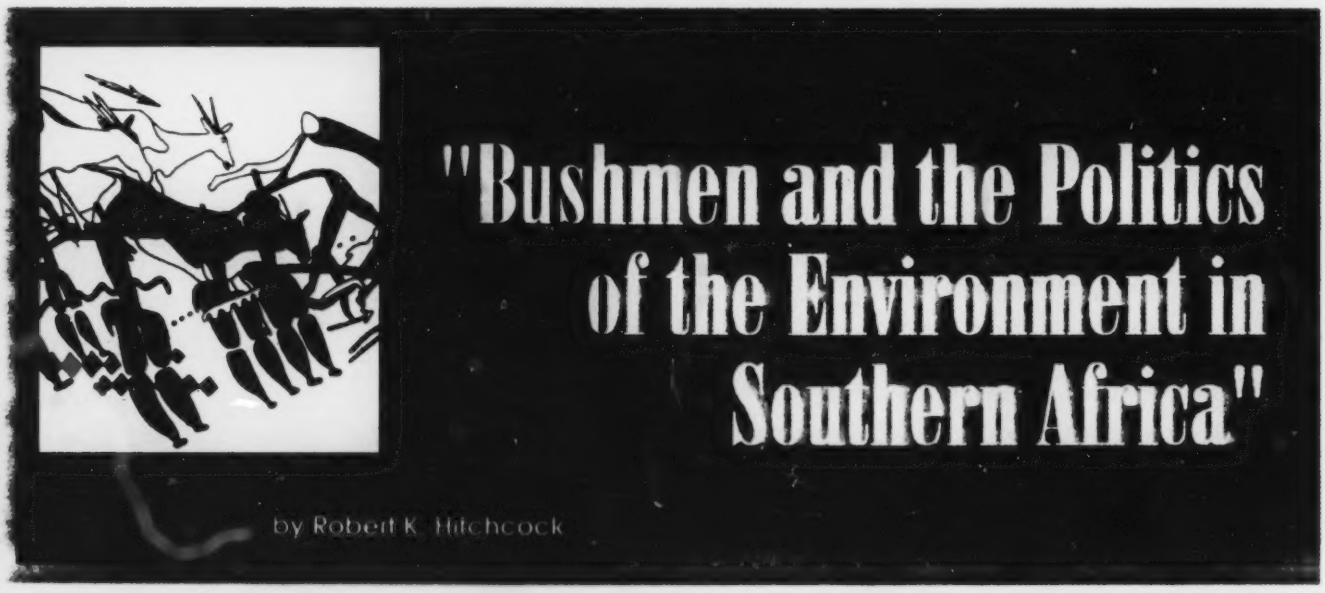
Canadian aid is as much valued by us as other Tanzanians. We are not opposed to your involvement in the development of this country. In fact, we would welcome your continued support for development in Hanang District. Our problems are with the project and its impact on our lives and land. Through this letter we want to inform you what is currently being done with your aid. You can see how you have been party to wrongs inflicted on us. With what you now know we hope you will be moved to use whatever means available to resolve the conflict in the name of justice.

We would also like you to consider how the wrongs inflicted on us might be redressed. We want our land back. We want our customary rights observed. We want no further destruction of the land. We would like a full and impartial investigation conducted into human rights abuses and those found guilty of crimes punished. Our hope is that you will be motivated to provide better human and livestock health facilities, and basic infrastructure and services would do much to overcome the underdevelopment we have endured. This is not a request for a few token projects, but a plea for a comprehensive development plan for the district. We want the opportunity to participate in our own development. In this way pastoralists can benefit as much as agriculturalists. Without your and other's support, we are destined to remain a poor and abused people without a future.

You are a rich and powerful nation. You have the means to overcome our problems. Your aid has helped others, at home and abroad. You live far from us and know little of our problems in Tanzania. We hope that this letter will make you more aware of what is happening to us. Please join us in our struggle. Without an effective and positive response from you our cause can be lost. That is why we are appealing to you now. Our cry for your help is our last resort.

Signed:
Gwauda Gidabayokt
Bada Lugod
Ako Gembul
Ng'ayda Baha
On behalf of the Barabaig people,
Hanang District, Arusha Region,
Tanzania

(ii) Production of public information materials by human rights organisations.
(iii) Publication of a series of papers based on research with the Barabaig that have informed the campaign (See Lane 1994).
(iv) The Barabaig case was one of four cases given special attention by the Presidential Commission of Inquiry into Lands Matters. A submission, 'The Barabaig Case: Implications for land policy in pastoral areas of Tanzania' by the author was in sympathy with the Commission's recommendations to accommodate *inter alia* the concerns of pastoralists by recognising customary rights to land in a multiple land tenure system, affirmation that land belongs to the community, shifting authority over land from the president to village assemblies and the need to provide greater transparency and accountability in the administration of land.



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(v) It was not until 1994 that the prime-minister succumbed to international pressure and appointed a Commission on Violations of Human Rights in NAFCO Wheat Farms, Hanang District. The author, Barabaig leaders and supporters were called to make written submissions. Although the Commission's report was never made public, it is reliably reported that it confirms the veracity of many of the allegations and makes a number of recommendations consistent with pro-Barabaig submissions.

(vi) In March 1994 a formal submission pursuant to United Nations Resolution 1503 (XLVIII) of the Economic and Social Council was made by Barabaig elders and senior community representatives to the Commission on Human Rights under the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Tanzanian government is now obliged to account for its actions in relation to Barabaig grievances, and this has become particularly pertinent following the appeal from the High Court judgement.

The struggle for land rights has brought the Barabaig into contact with many people and organisations that were hitherto unknown to them. Initially, contact was made with members of the research community and lawyers. Support was received from many sources and organisations which work with indigenous groups on rights and justice related issues (e.g. Human Rights Watch/Africa, Foodfirst Information and Action Network (FIAN), the International Work Group for Indigenous Affairs (IWGIA), Probe International, Survival International).

Indigenous organisation

From the outset the land cases were conducted with the agreement and involvement of the whole Barabaig community in Hanang District. Attention was given to ensuring that the community was willing to contribute to some of the costs and take responsibility for the outcome of the campaign. This experience has galvanised the community and they have formed themselves into a formally registered community-based organisation, *Bulgalda*. It has a mandate to continue campaigning for protection of Barabaig rights and has developed a wider development agenda.

As a formally registered indigenous pastoral NGO, *Bulgalda* has joined similar organisations in a coalition of Indigenous Pastoral Non-Government Organisations (PINGOs). This has enabled them to represent a wider constituency, speak with greater authority on common issues, make use of economies of scale, more easily attract support from donors, and provide a sound base for lobbying.

Until recently the Barabaig have adopted a confrontational approach to the problem of land alienation. Not surprisingly, challenging government in the courts has been perceived as a threat by the authorities and some extraordinary measures have been taken against them. Whilst confrontation has had some beneficial impact, not all of it has been good. Antagonising officialdom has at times resulted in manoeuvres by government to conceal errors, the placing of restrictions on NGO registration and operation, the suppression of information, harassment and co-option of activists. To avoid such set-backs *Bulgalda* joined with others in PINGOs to develop more sophisticated strategies that mix measured confrontation with more conciliatory approaches that involve lobbying and building a basis for dialogue with all parties to disputes (Bradbury, Fisher & Lane 1995).

Bulgalda has also joined with other pastoral NGOs in a *Pastoral Caucus* to try and influence land policy formulation and attain greater land tenure security. This has resulted in the preparation of a list of recommendations that have been sent to the minister of lands, the lobbying of MPs, and mobilising other community groups to develop their own plans of action.

The Barabaig community has developed greater confidence from succeeding in taking the government court. The long term benefits of this cannot easily be measured. However, it is clear that they have learnt they have rights that are enforceable by law, they are free to make use of existing national structures to address their concerns, they have allies at home and abroad who are interested to support them and there are advantages in participating more fully in national society.

In this way of engaging more fully in the wider world of national and international affairs and making use of institutions, people and resources, the Barabaig have been able to turn the adversity of dispossession to the advantage of becoming more participatory citizens of the Tanzanian nation-state and members of a world community. By relating to others who share their difficulties they have been able to join an international movement in the pursuit of justice by indigenous peoples who are struggling to successfully assert their rights to customary lands.

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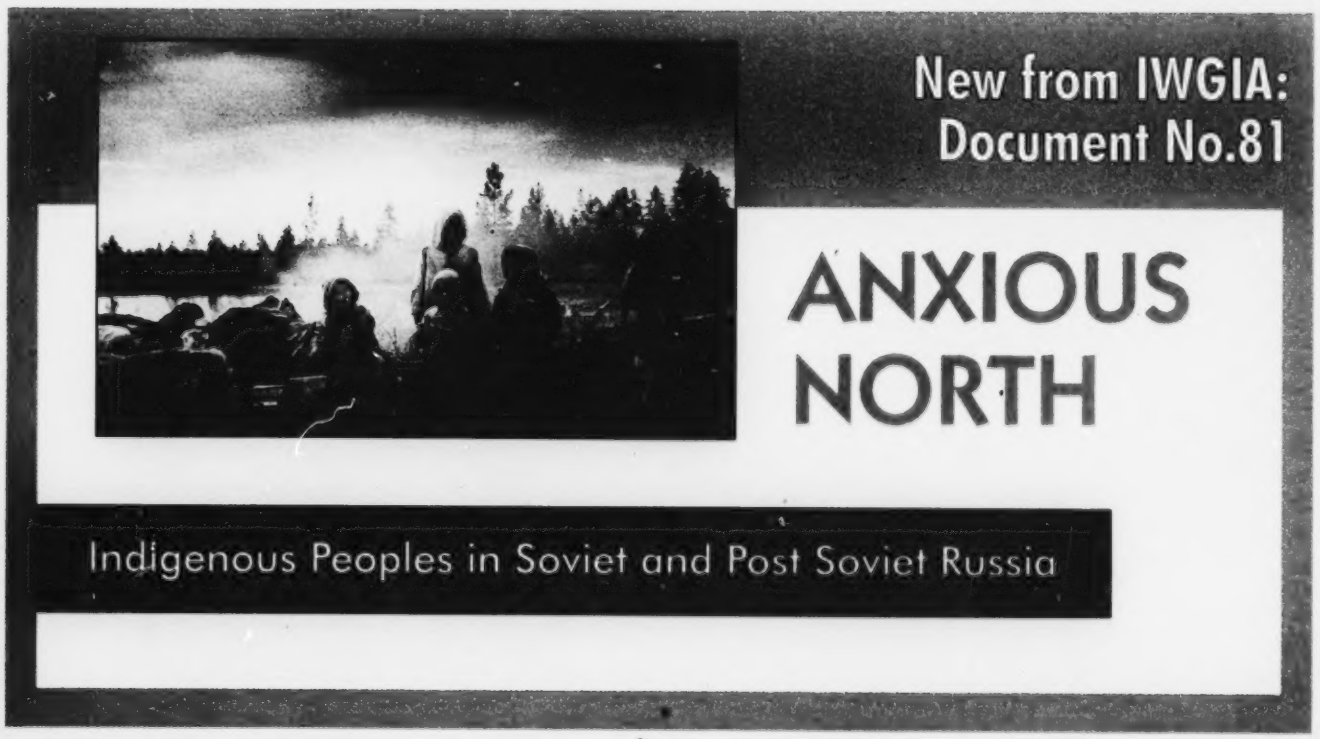
Notes

[1] This article was first presented as a paper to the Symposium on The African Land Crisis during a meeting of the Canadian Association of African Studies, 1-5 May 1996 at McGill University, Montreal.

[2] *Yoke Gwako and 5 Others v. NAFCO & Gawal Farm* - Civil Case No.52 of 1988, and *Ako Gembul & 10 Others v. NAFCO & Waret and Gidagawmod Wheat Farms* - Civil Case No.12 of 1989. ❑



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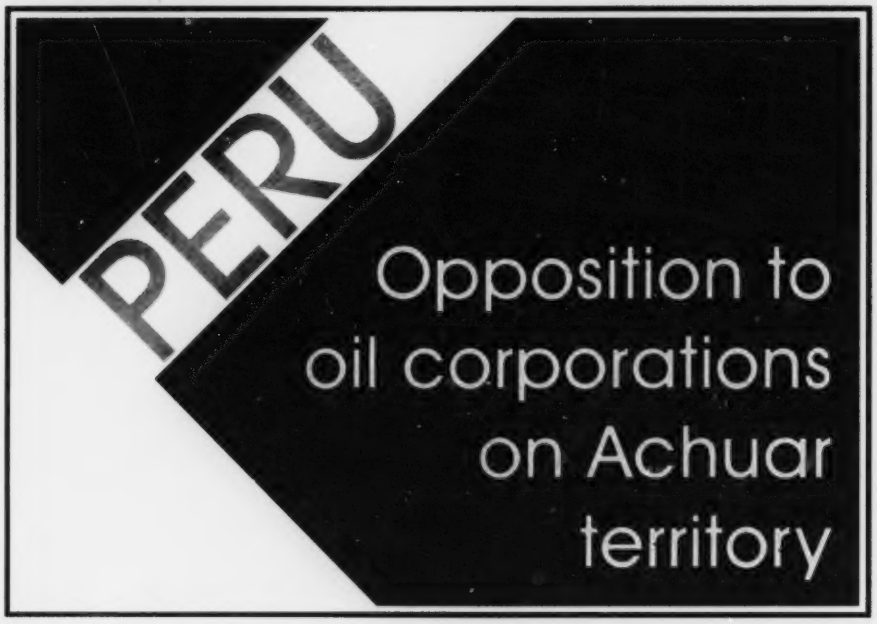

The undersigned leaders of the communities constituting the Achuar people would like to inform our Government and the people of Peru that Achuar indigenous people reject oil exploration and exploitation on their territory, specifically Lots 54 and 56 located in the district of Pastaza, Alto Amazonas Province, Loreto Region.

We live in peace on our territory thanks to our respect for nature. In order to live, our children need an unspoiled land, and we are determined to leave our land this way, even if it entails great sacrifice on our part.

We are aware of and have seen with our own eyes the fate of other indigenous peoples after oil exploitation was carried out on their territories such as the cases of Rio Napo, Rio Tigre and Rio Corrientes.

Our aims include the fight for life, rights and justice. We do not want our soil, air and rivers nor our foodstuffs or current and future ways of life to be polluted, destroyed or otherwise negatively altered. We do not want to lose our identity as the Achuar indigenous people nor do we want our children to forget our customs.

Therefore, we petition the Government to suspend the oil exploration project in Lots 54 and 64 and insure the protection of Achuar indigenous communities.

For the record, as leaders conscious of our moral duties and exercising our rights as members of the Peruvian public, in order to benefit all peoples, current and future, we hereby sign this letter calling for respect for our rights and cultural, social, environmental and territorial integrity.

The Peruvian State has bestowed upon the directorate of those members of our Achuar communities who have signed this document the right to protect our territory, which was titled by the Ministry of Agriculture in the region of Loreto. Further, speaking for all of our communities, we fully reject oil exploration carried out by Arco Corporation and other corporations which seek to exploit oil on our territory in Lot 64.
Wisum, 10 December 1996.

Taish W.Kuji Nawir
Pres. org. Ati
L.E. No. 05632855
Samiruk Kachu Kantserkap
Vice-Pres. org Ati
L.E. No. 05632801
F. Antonio Fachin Tapayuri
Sec. org. Ati
L.E. No. 05627591

Note
Lots 54 and 64

Lot 54:
Lot 54 is 850,342 ha, and is located in the Pastaza and Huasaga Rivers basin, in the district of Pastaza, Alto Amazonas Province, department and region of Loreto. It was handed over to the Argentine company PLUSPETROL S.A and the Peruvian and North American subsidiary OCCIDENTAL PETROLERA DEL PERU INC., SUCURSAL DEL PERU, (OXY).

The oil exploration and exploitation contract, signed in August 1995, includes territories pertaining to the Quichua indigenous people, organised in the Quichua of Pastaza Indigenous Federation (FEDERACION INDIGENA QUICHUA DEL PASTAZA), (FEDIQUEP) and part of the Achuar indigenous people's territory, represented by the organisation ORGANIZACION ACHUAR CHAYAT, (ORACH).

FEDIQUEP's central office is located in the Christian Alliance community and its members come from 10 communities of the Quechua people in Pastaza. It was founded in 1992 and has the promotion of its people's development and values as its primary objective, as well as improving the social and productive infrastructure of the communities and education.

Lot 64:
Lot 64 is located in the hydrocarbonaceous basin of the Marañon in the subdivision of the district of Pastaza, Alto Amazonas Province, department of Loreto. This 953,790 ha lot has been granted to the North American companies ATLANTIC RICHFIELD (ARCO) and OCCIDENTAL PETROLEUM CO.

Lot 64 is adjacent to Lot 54 and the intended oil related activities also include almost the totality of the Achuar indigenous people. The Achuar are represented by two organisations:
ORGANIZACION ACHUAR CHAYAT, (ORACH) and
ACHUARTI IJUNDRAMU, (ATI).

We request that all those interested in protecting the rights of indigenous peoples write to the offices of the oil corporations and the Peruvian State's institutions and authorities so that they hear

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the just protests of the Achuar indigenous people.

ARCO Corporation:
- Head Office: 515 South Flower Street, Los Angeles, California 90071- 2256, USA. Telephone: (213) 486 3511, Telex: 677415. Fax: (213) 486 2063.
- Directors: M.R. Bowin (Chairman and Chief Executive), R.J. Armault (Chief of Finances), A.J Fernandes, W.E. Wader Jr (Executive Vice-Presidents); F. D Boren, L.M Cook, R.H. Deihl, J. Gavin, H. H. Gray, P. M. Hawley, K. Krese, D. T. McLaughlin, J. B. Slaugter, H. B. Waldron, H. Wendt.

OXY Corporation:
- Head Office: 10889 Wilshire Boulevard, Los Angeles, California 90024-4201, USA. Telephone: (310) 208-8800. Telex: 67-3389.

Oxpete LSA.
- Directors: R.R Irani (Chairman President and Chief Executive), J.R. Hirl (President and Chief Executive Occidental Chemical Corp), D.R. Laurance (Senior Oper.), J. F Riordan (President and Chief Executive, Midcon Corp.) (Executive Vice-Presidents); A. Gore Sr. A. Gronam, R. Segovia, J.W Kluge, W. Maloney, L. Nizer, G. O. Nolley, A. D. Syriani, R. Tomich.

In PERU:

Occidental Peruana Inc.
Los Nardos 1018, San Isidro.
Telf. 442-8110

COMPANIA PLUSPETROL:
- Head Office: Pluspetrol Building, La Rioja 301, 1214 Buenos Aires, Argentina Telephone: (541) 935011-19. Telex: 22371. Fax: (541)972301.
- Directores: L. A. Rey (Chairman and Chief Executive), A. J. Selesco (Senior Vice-President). O. H. Secco (General Manager and Chief of Operations), H. P. Poli, O. M Setuain.

Defensoria del Pueblo (ombudsman):
Dr. Jorge Santisteban
Jr. Ucayali No. 388, Lima 1, PERU
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Indigenous and Maroon leaders in Suriname held a second Gran Krutu (Great Gathering), 20-22 November 1996 in the indigenous community of Galibi. The first Gran Krutu was held in the Maroon community of Asindon-Opo in August 1995. The main purposes of the Gran Krutu were to strengthen co-operation and unity amongst indigenous and Maroon peoples, to voice opposition to the policy of the Surinamese government to hand out their ancestral lands in concession to multinational mining and logging companies and to demand that their rights to own and control their lands and territories be recognised in Surinamese law in accordance with international human rights standards. In addition to the Surinamese delegates, the Second Gran Krutu was attended by a representative of the Amerindian Peoples Association of Guyana and by a coalition of organisations from French Guiana.

At the outset the participants reaffimed the conclusions and results of the first Gran Krutu and asserted their fundamental right to self-determination. They stated that they do not wish to separate from Suriname, but that their rights to autonomy and self-government must be respected and recognised in the Constitution of Suriname.

The legal recognition of land rights was the most discussed issue. Suriname, in contrast to most other states in the Western Hemisphere does not recognise that indigenous peoples and Maroons have any land or other rights under law. It was pointed out that land rights for indigenous and tribal peoples are internationally recognised human rights, fundamental to their survival as culturally distinct peoples, and that the Surinamese government is in violation of international human rights treaties which it has signed. The Indigenous and Maroon leaders stressed that this failure to recognise their rights has taken on additional significance and urgency given the policy of the government to grant concessions to multinational mining and logging companies that encroach on or encompass their ancestral lands and territories. These concessions are granted without any consultation with the affected communities, in most cases even without their knowledge, and with little or no environmental controls in place.

It was noted that the contracts for the inconceivably large logging concessions, totaling between 3-5 million hectares, to Berjaya Berhard, Suri-Atlantic and MUSA of Indonesia had been suspended by the government. These concessions has been vigorously opposed by the indigenous and Maroon peoples and the international community since they were announced. The Second Gran Krutu stated that suspension of these contracts was not enough, rather they should be thrown out all together. Perhaps in response to this statement, President J. Wijdenbosch announced on 2 January 1997, that the large concession would not be granted; the largest concession that will be permitted will be 150,000 hectares. Berjaya's President, Surrendre Mungra, who is brother of the Minister of Finance and former legal counsel of Berjaya, Atta Mungra, appeared pleased that his company could officially start working in Suriname: previously they were working illegally through a front company.

However, the President's statement leaves many questions unanswered, for instance, can the same company hold more that one concession at a time? - the answer would appear to be yes, and it is also the case that the entire area proposed under the original 3-5 million hectare concessions applied for by Berjaya, MUSA and Suri-Atlantic is available for concession again. Also as the government's forestry service is still incapable of monitoring logging operations in existing concessions, how will it also monitor what presumably will be a large number of 150,000 hectare concessions?

The conclusion to be drawn from this is that the only lesson the government has drawn from the fiasco of the large timber concessions is that they were too big and that this was the only problem.

One multinational Canadian gold mining company, Golden Star Resouces (based in Denver, Colorado), was singled out by the Gran Krutu, which demanded that its activities be suspended until the implications thereof were better understood and indigenous and Maroon lands rights were legally recognised and the boundaries of their territories had been demarcated. They also questioned how

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the government found it so easy to grant hundreds of thousands of hectares of land to a mining company but refused to recognise even one hectare of their land rights. A representative of the Amerindian Peoples Association of Guyana also informed the Gran Krutu about Golden Star´s activities in Guyana and the disregard of indigenous rights associated with them.

Golden Star is best known for its involvement in the OMAI mine disaster in Guyana, which released approximately 4 million cubic litres of cyanide laced effluent in the Essequibo river and for its ongoing dispute with the Maroon community of Nieuw Koffiekamp in Suriname. At Nieuw Koffiekamp, Golden Star security personnel and the police working with them have been implicated in threatening and harassing community members by using live ammunition to frighten them away from areas in which the company was exploring for gold. Villagers also complain that they have been denied access to their agricultural plots and hunting grounds by the security force and by barriers that the company has erected.

In a 26 September 1996 press release, Golden Star stated that it is 'inevitable' that the people of Nieuw Koffiekamp will be relocated to make way for their operations. This community was relocated once already in the mid-1960s to make way for a hydroelectric dam constructed to power the bauxite refining operations of another multinational mining company, US based ALCOA. The Gran Krutu expressed its solidarity with the people of Nieuw Koffiekamp and stated its opposition to any effort to relocate the community without its free and informed consent as required by international human rights law. Participants from other communities who now find themselves in a concession held by Golden Star expressed the fear that they may be subjected to the same treatment as the people of Nieuw Koffiekamp or that their rivers may one day be full of cyanide.

The indigenous community of Kwamalasemuty stated that they had been pressured into signing an agreement with Golden Star, who had gone so far as to bring ex-military dictator, Desi Bouterse (and present Chairman of the ruling National Democratic Party) to the village twice to convince them that if they did not sign the agreement they would never get 'development' in their village. The village leaders had previously said no to Golden Star´s demands four times, before signing an agreement in November. The indigenous community of Casipora also indicated that Golden Star´s employees had threatened them, including bringing Bouterse over to talk to them after they had objected to Golden Star´s presence on their land.

At the last meeting in Kwamalasemutu the headman´s translator was not present and the company used their own translator, who by some accounts painted a very rosy picture of Golden Star and the impact of its operations. Ironically, the community and its land had been part of a concession, which also includes a national park, held by Golden Star´s Surinames partner, NaNa Resources, dating back to the period of military rule when it was granted by Bouterse to Na-Na Resources. The community came to the Gran Krutu to repudiate the agreement and request support from other communities. The Association of Indigenous Village Leaders in Suriname (VIDS) has promised to investigate and take action on this matter.

Another important point of discussion revolved around the establishment of a governmental commission, under the Ministries of Natural Resources and Regional Development, to examine the 'problem of land rights in the interior of Suriname'. This commission takes the place of the Redan Commission which was installed a number of years previously to examine the same question - it did not submit any public conclusions and recommendations. The Gran Krutu stated that it was entirely unclear about the purpose and mandate of this commission and expressed its outrage that the government could discuss their rights without the full participation of their legitimate representatives. They said that 'this once again demonstrates a lack of respect for our human rights' and demanded that all and any future discussions relating to indigenous and Maroon lands and resources must take place with the participation and consent of representatives of the interior.

However, this Commission, which consists of first and foremost loyal members of the National Democratic Party, continues its work and has held a number of hearing. These hearing are private and to date the Association of Indigenous Village Leaders has been excluded. The second phase of the Commission´s work will be to travel into the interior to hold hearings in Maroon and indigenous villages and then, presumably, to present a report with conclusions and recommendations. The prospects for meaningfull dialogue are limited and one has to question the credentials of the committee members to address the subject. Public statements indicate that they see no reason to change existing law or to recognise collective rights. Undoubtedly, this issue will become more contentious as time passes and indigenous and Maroons are already mobilizing in opposition to the commission.

Full text of the resolutions of the meeting can be found on the e-mail conference: gn:conf:rainfor.general

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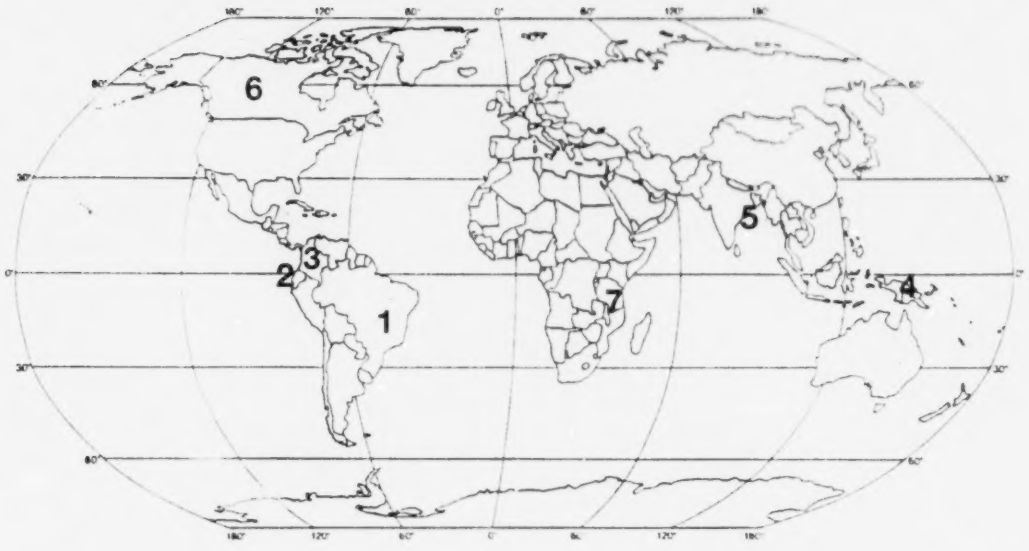

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Editorial

Pueblos indígenas ganan premio en relación con el tema del petróleo

El 13 de marzo de 1997, la organización indígena peruana, La Federación Nativa de Madre de Dios (FENAMAD), recibió el Premio Bartolomé de las Casas de manos del Príncipe Español Felipe de Asturias, en Madrid. El Presidente de FENAMAD, Antonio Iviche y el representante *harakmbut* Héctor Sueyo, aceptaron el premio en nombre de los pueblos indígenas de Madre de Dios, particularmente aquellos que viven en aislamiento voluntario - los *yora, amahuaca* y *mashco-piro*.

El «aislamiento voluntario» se refiere a los pueblos indígenas que evitan contacto con la sociedad nacional porque temen las consecuencias de un contacto permanente. Los yora, amahuaca y mashco-piro se enfrentan actualmente a amenazas provenientes de intereses externos, particularmente de parte de la compañía petrolera Mobil, la cual ha estado explorando en el área del río Las Piedras. FENAMAD ha estado en la vanguardia de la defensa de los pueblos locales.

El premio Bartolomé de las Casas es un galardón prestigioso para aquellos que defienden los derechos de los pueblos indígenas en toda Iberoamérica. Los galardonados son frecuentemente académicos e indigenistas, y por lo tanto fue una buena noticia enterarse de que una organización indígena había recibido el premio.

La organización nacional Asociación Interétnica para el Desarrollo de la Selva Peruana (AIDESEP) había propuesto a FENAMAD para el premio en reconocimiento de su posición en la vanguardia de la lucha contra Mobil en Madre de Dios. AIDESEP presentó su propuesta en la reunión del Panel Intergubernamental sobre los Bosques, organizada por los indígenas en Leticia, Colombia, en diciembre de 1996, donde fue plenamente endosada por los representantes de más de cincuenta organizaciones indígenas y no-indígenas.

FENAMAD es una organización local basada en una de las partes más étnicamente diversas de las tierras bajas de América del Sur - la región contiene más de 19 diferentes pueblos indígenas pertenecientes a cuatro familias linguísticas. FENAMAD tiene también una sub-organización étnica, el Consejo Harakmbut (COHAR) el cual refleja las necesidades y aspiraciones de los pueblos indígenas de la partes superior del Madre de Dios. Igual que otras organizaciones indígenas, FENAMAD está compuesta de un Congreso, constituido por representantes comunitarios, el cual elige una dirección cada tantos años.

La historia de FENAMAD ha sido dedicada a la defensa de los pueblos indígenas de Madre de Dios. Fue fundada en 1982 en el momento más álgido de una «fiebre del oro» que estaba amenazando seriamente el futuro de los pueblos harakmbut. El temor por su futuro estaba bien fundado - el área había sido devastada en la época del «boom» del caucho a fines de siglo, oportunidad en que algunos pueblos,

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Portada: *El Príncipe de Asturias hace entrega del Premio Bartolomé de las Casas al Presidente de la Federación Nativa de Madre de Dios, Antonio Iviche Quique.*

por Andrew Gray

como los *toyeri*, perdieron hasta el 95% de su población.

FENAMAD ha denunciado insistentemente los abusos de la «fiebre del oro» que afectó a Madre de Dios durante los años 1980. Informes regulares del área describen la extrema explotación de los trabajadores auríferos, el trabajo infantil y las prácticas de tipo esclavista. Los líderes comunitarios reciben regularmente amenazas de muerte y en los años recientes varios han sido muertos. El resultado es la colonización de los territorios de los pueblos indígenas y el saqueo de sus recursos.

FENAMAD ha asumido coherentemente una posición decidida en defensa de los derechos de las comunidades, y a pesar de la intensa oposición de las autoridades locales y nacionales, ha logrado titular el 80% de las comunidades indígenas de la región. La principal tarea ha sido defender estas tierras y, con la reciente ayuda de IWGIA/DANIDA, FENAMAD y el pueblo harakmbut, en enero de 1997, comenzó un proyecto de autodesarrollo que abarca la consolidación territorial y métodos sustentables de producción.

Sin embargo, FENAMAD obtuvo la atención internacional el año pasado gracias a su enérgica defensa de las comunidades indígenas y los derechos de los pueblos yora, amahuaca y mashcopiro, no contactados, que enfrentaban las incursiones de la compañía petrolera Mobil. Esta compañía exploró el área de Las Piedras durante el verano de 1996 contra la recomendación de la Evaluación de Impacto Ambiental. FENAMAD denunció los riesgos que Mobil ocasionaba a los pueblos locales y se efectuó rápidamente una campaña internacional.

FENAMAD fue la primera en informar que habían habido encuentros de diversos tipos entre aquellos involucrados en las actividades de explotación petrolera y los pueblos aislados de Las Piedras y enfrentó, sin ayuda, los desmentidos. Mientras que otras ONGs han sido seducidas por las ofertas financieras de la Mobil, FENAMAD permaneció firme, dispuesta a conversar pero sin comprometer los derechos de estos pueblos.

Aparte del área en la cual viven los pueblos indígenas voluntariamente aislados, Mobil está preparándose para explorar el territorio de los harakmbut en el área de Karene entre el Parque Nacional Manu y la zona reservada de Tambopata Candamo. En 1991, FENAMAD logró demarcar y completar los estudios para una Reserva Comunal Amarakaeri, que abarca este territorio y sus áreas sagradas. No obstante, el gobierno peruano se negó a aprobar la reserva, poniendo obstáculos, lo cual coincide con los intereses de Mobil en la exploración de petróleo en la misma área.

El premio Bartolomé de las Casas constituye un gran logro, porque reconoce la lucha que impulsa FENAMAD y, tal como dice Antonio Iviche, también reconoce la lucha de todos los pueblos indígenas del Amazonas que defienden sus derechos frente a las compañías multinacionales, colonizadores y autoridades. El premio es también un mensaje a FENAMAD y otros de que no están solos en su posición.

Sin embargo, FENAMAD está ya enfrentando una reacción al premio. Mobil está actualmente dirigiéndose a las comunidades establecidas del área Karene, tratando de obtener acuerdos que le permitan la exploración petrolera, los cuales podrían ser usados en contra de FENAMAD. Aunque las comunidades están unidas en su oposición a la explotación de petróleo en sus territorios, Mobil ha visitado las comunidades del área tres veces desde enero, ofreciendo bienes, empleos e incentivos monetarios a cambio de un contrato. Además, algunos sectores de los medios de difusión locales y nacionales han insinuado que no existen pueblos no contactados en Las Piedras y que el premio traerá la corrupción y será malversado. En realidad, FENAMAD ya está usando el dinero (unos $20.000) para la demarcación del área en la cual viven los pueblos indígenas aislados con el objetivo de crear una «reserva territorial», reconocida y protegida por la legislación peruana.

Es motivo de gran satisfacción para IWGIA que FENAMAD haya recibido el premio Bartolomé de las Casas. Esto ilustra la solidaridad entre las organizaciones del Norte con los pueblos indígenas del Amazonas. Deseamos lo mejor para FENAMAD en el futuro y expresamos nuestra solidaridad y apoyo para con su lucha por los derechos de los pueblos indígenas de Madre de Dios, en Perú.

PERU:
Indígenas y Petróleo en la región de Madre de Dios

Por Alfredo García Altamirano

Antecedentes

La cuenca del río Madre de Dios históricamente es territorio tradicional de varios pueblos indígenas como los *arakmbut* (familia lingüística *harakmbut*), *matsiguenka* (*arawak*) y *ese eja* (*tacana*).

La fiebre del caucho a fines del s. XIX provocó un proceso de dislocamiento tribal y de crisis demográfica entre los diversos grupos indígenas como consecuencia de las *correrías*, contagio de enfermedades, masacres y enfrentamientos con los caucheros.

Las misiones dominicas ingresaron como parte de este proceso, buscando cristianizar a la vez que enseñar el comercio y las transacciones monetarias, favoreciendo la articulación mercantil entre indígenas y comerciantes locales.

Los caucheros por su parte, introdujeron otros pueblos indígenas como los *shipibo-conibo* y *kichwa runa* que se quedaron en la región después del colapso de la fiebre cauchera en los años 20.

El ciclo minero

La región estuvo precariamente articulada al resto del país hasta los años 70, cuando un nuevo ciclo económico se desarrolló con la extracción del oro. Una carretera desde Cusco hasta Mazuko y Puerto Maldonado favoreció la masiva migración de personas procedentes de las comunidades altoandinas y urbes de la sierra sur peruana buscando fortuna rápida y fácil.

La zona de minería aurífera en Madre de Dios coincide con el territorio tradicional de los *arakmbut*, *arasaeri*, *pukirieri* y otros grupos harakmbut. Desde esos años, las aldeas harakmbut se vieron invadidas de mineros.

El problema territorial, FENAMAD Y COHAR

Frente a esta situación en 1992, se organizó la Federación Nativa del Río Madre de Dios y Afluentes (FENAMAD), iniciativa del pueblo harakmbut, para defender sus derechos territoriales y reclamar ante las autoridades locales y nacionales la solución a sus demandas.

La organización, en sus posteriores congresos, fue incorporando progresivamente a otras aldeas indígenas, buscando construir una alianza de los pueblos indígenas de la región a fin de hacer frente a los problemas de la colonización.

PREMIO BARTOLOME DE LAS CASAS 1996

CASA DE AMERICA MADRID

Premio instituido en la Casa de América por el Instituto de Cooperación Iberoamericana y la Secretaría de Estado para la Cooperación Internacional y para Iberoamérica

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En 1992, ocho localidades indígenas habían obtenido, por sí mismas, su reconocimiento oficial como comunidades nativas y sólo cuatro habían recibido títulos de propiedad antes de ser creada la FENAMAD.

En base a su esfuerzo sus Congresos y el trabajo de sus líderes, y con el apoyo de instituciones públicas y privadas, principalmente Centro Eori, la Corporación Departamental de Desarrollo y el Ministerio de Agricultura, FENAMAD logró, en 1995, el reconocimiento oficial de 19 localidades indígenas más y la titulación de 15 de ellas. En 1997 se logró la titulación de dos comunidades más, sumando en total 27 comunidades nativas reconocidas y 21 comunidades nativas tituladas.

Conviene anotar que en 1993, surgió el Consejo Harakmbut (COHAR), expresión de un nivel de organización intermedia entre las comunidades harakmbut y la FENAMAD, organización que ha asumido desde entonces acciones conjuntas con FENAMAD.

El frente petrolero

Por esos años los conflictos entre los pueblos indígenas en aislamiento voluntario y la presencia de las empresas petroleras y extractores de madera en la cuenca de río Urubamba, al oeste del Parque Nacional del Manu, acarreó una epidemia de tos ferina que exterminó a más de la mitad de los miembros de un grupo indígena *vura* (familia lingüística *pano*) ubicado en el río Chaspajali, Alto Manu, en el Parque Nacional del Manu.

La presencia de indígenas en aislamiento voluntario en las nacientes de los ríos De los Amigos, Tacuatimanu o De las Piedras, Tahuamanu, Chandlesa y Yacu, al norte del departamento de Madre de Dios, fronterizo al norte con la cuenca del río Urubamba, región Ucayali, obedece a las presiones de madereros, colonizadores y empresas petroleras.

La FENAMAD asumió asimismo, desde sus inicios, la defensa de otros indígenas que se encuentran en aislamiento voluntario de la sociedad nacional. Así impulsó junto con otras organizaciones indígenas y privadas, la creación, en 1990, de la Reserva del Estado Nahua-Kugapakori, al oeste del Parque Nacional del Manu, sentando un importante precedente en la amazonía peruana, a través de esta categoría jurídica reconocida en la legislación nacional.

El ordenamiento territorial en la cuenca

Parte del esfuerzo también realizado por la FENAMAD ha estado relacionado, mediante sus demandas de reconocimiento de derechos territoriales, por obtener legalidad sobre otras porciones de territorios tradicionales utilizados con fines de subsistencia para la caza, pesca y recolección de recursos silvestres, debido a que las titulaciones de tierras no correspondieron con el uso real del espacio.

En 1991 mediante convenio con el Ministerio de Agricultura, la FENAMAD logró ejecutar un estudio para el establecimiento de la Reserva Comunal Amarakeri, presentado al propio Ministerio de Agricultura en 1992. Dicho expediente sirvió de ejemplo para otras acciones de ordenamiento territorial en el Ucayali central a donde se han creado ya nuevas reservas comunales. Pero en Madre de Dios la Reserva Comunal Amarakaeri todavía no ha sido legalizada debido a las presiones de grupos de poder local que pretenden destinar dicha área para otros fines de especulación comercial de tierras y recursos silvestres. Y, más recientemente, por un nuevo ciclo de la actividad petrolera.

La compañía Mobil en Madre de Dios

La Mobil tiene concesiones para los Lotes 77 que afecta la porción al norte del departamento de Madre de Dios y del Parque Nacional del Manu donde están ubicados probablemente grupos de habla *pano* (*vora*) así como los denominados localmente «*mashco piro*» (familia lingüística *arawak*).

El lote 78 afecta el núcleo central de la Zona Reservada Tambopata Candamo (1990) territorio tradicional ebe eja y al noroeste, parte del territorio tradicional harakmbut incluyendo la propuesta de la Reserva Comunal Amarakaeri.

La fase de exploración sísmica comenzó en marzo de 1996 y se extiende hasta septiembre de este año. A enero 1997, la Compañía Mobil había concluido su trabajo sísmico en el Lote 77 y tiene pendiente de realinear 400 km de líneas sísmicas en el Lote 78, habiendo previsto reanudar sus actividades en el mes de abril.

La FENAMAD y la Mobil

La FENAMAD en su IX Congreso, realizado en la comunidad de Santa Rosa de Huacaria, en diciembre de 1995, propuso que la compañía Mobil le apoyase en la creación de la Reserva Comunal Amarakaeri a fin de evitar problemas cuando se dispusiera a realizar sus actividades de explotación sísmica, pero Mobil no tiene ingerencia sobre las decisiones del gobierno central al respecto.

La FENAMAD junto con otra organización local, la Federación Agraria Departamental de Madre de Dios (FADEMAD) y el Municipio Provincial de Tambapta (MPT) organizaron, en Puerto Maldonado (agosto 1996) un foro sobre el tema «Desarrollo Sostenible en Madre de Dios: Áreas Protegidas, Poblaciones Locales y Recursos Energéticos». Entre sus conclusiones centrales se demandó, una vez más, al gobierno central, la inmediata creación dela Reserva Comunal Amarakaeri así como declaró de necesidad la participación de FENAMAD y FADEMAD en los trabajos de la Mobil en el departamento, a través de acciones de monitoreo local.

Paralelamente, FENAMAD tomó contacto con la subcontratista Grant Geophysical cuando ésta contrató a indígenas yine de la aldea Monte Salvado, ubicada en el curso medio del río Tacuatimanu o De las Piedras, surgida de una reciente migración desde su comunidad de origen, Miaría, Urubamba. Su tarea era servir de guías.

Reportes brindados por dichos guías fuero transmitidos por FENAMAD a Mobil en septiembre de 1996, quién contestó a FENAMAD reconociendo la presencia de indígenas en aislamiento de la sociedad nacional en dicha área.

Con estas iniciativas, FENAMAD ganó audiencia a favor de sus reivindicaciones. Desde entonces, son varios los esfuerzos que vienen siendo desplegados.

La Mobil ha buscado también hacer negociaciones directas con algunas comunidades, como ser el caso de Kotsimba adentro de la Zona Reservada Tambopata Candamo y Diamante, en el Manu, para emplear su aeropuerto como base de operaciones. Asimismo, ha hecho un intensivo *lobby* nacional y local a favor de su presencia buscando cooperar incluso con las víctimas de las fuertes lluvias de mes de febrero en la amazonía peruana.

Por otro lado, entre enero y marzo de 1997, FENAMAD y COHAR han tomado parte de las conversaciones de la Compañía Mobil con la comunidad harakmbut Puerto Luz, parte de cuyo territorio titulado sería atravesado por una de las líneas de exploración sísmica de la Compañía Mobil. A estas reuniones están acudiendo las comunidades Harakmbut San José del Karene, Barranco Chico, Boca del Inambari, Boca Isiri, Shiringayec y Shintuya, incorporando en la agenda de conversaciones el ingreso de las líneas sísmicas en el territorio destinado para la Reserva Comunal Amarakaeri aún no creada.

Las demandas inmediatas de FENAMAD

Además de insistir en la necesidad de que se cree la Reserva Comunal Amarakaeri, las comunidades nativas más directamente afectadas y su organización, FENAMAD están demandado también a la Compañía Mobil que en el área del curso superior de los ríos Tacuatimanu o De las Piedras y otros

adyacentes, se establesca igualmente una reserva a favor de los indígenas en aislamiento voluntario.

A nivel nacional y local, algunos agentes sociales, entre ellos misioneros dominicos, han buscado restar importancia al hecho o inducir en dudas sobre la presencia de dichos indígenas. Parte de la respuesta de FENAMAD y COHAR a ello ha sido difundir en Lima, Pucalpa y Puerto Maldonado sus puntos de vista. Así, poco después de la ceremonia de entrega del Premio Bartolomé de las Casas, FENAMAD y COHAR organizaron en Puerto Maldonado (26 de marzo) una conferencia sobre el tema, donde remarcaron, ante la prensa y autoridades locales, sus demandas inmediatas por la creación de la Reserva Comunal Amarakaeri y de una reserva en el río De las Piedras, despertando simpatías y acogida por los asistente.

Pespectivas

Armonizar el interes nacional, obtener divisas mediante la producción de hidrocarburos con el interés local y resolver las necesidades básicas de su población, indígena amazónica y migrante extralocal, debiera ser la premisa de trabajo de la Compania Mobil y el gobierno central.

La realidad no es así, la Compania Mobil al priorizar únicamente su agenda comercial, está descuidando que la diversidad biológica y cultural es un asunto cada vez más crucial para el futuro de la humanidad y tema de interés de un amplio movimiento social mundial que está reaccionando ante estos problemas.

En poco, más audiencia nacional y local está teniendo esta región, gracias, entre otros, a las iniciativas desplegadas por FENAMAD, que está tratando de llamar la atención alos problemas que tienen los pueblos indígenas en esta region.

Los desafíos y retos de la organizacion son muy duros adelante, no solo en relacion al tema petrolero sino también al minero, que sigue siendo un problema álgido para los harakmbut.

Por ello es crucial la articulacion de esfuerzos que a nivel local, nacional y mundial pueda construirse para que, también desde esta región, podamos cooperar con otras iniciativas indígenas, intercambiando experiencias y trabajando solidariamente.

Alfredo García Altamirano es coordinador del programa de la FENAMAD de desarrollo integral para Madre de Dios «Plan Karene»

Palabras del Presidente de la FENAMAD con motivo de la entrega del Premio Bartolomé de las Casas

Mi nombre es Antonio Iviche Quique, Presidente de la FENAMAD, soy del pueblo *harakmbut*, que fue la nación más numerosa que pobló Madre de Dios, desde hace 3.000 a 5.000 años. Nuestro pueblo ha vivido en armonía con todas las especies del bosque, conservando, respetando y cuidando la naturaleza. Hoy estas tierras son reconocidas como la Capital de la Biodiversidad del Perú y una de las áreas de mayor diversidad biológica del planeta.

Hace 70 años, cuando nuestros abuelos tuvieron los primeros contactos con la sociedad nacional, todos los pueblos indígenas de Madre de Dios han reducido su población. Los harakmbut nos hemos reducido al 5% y algunos otros pueblos ya se han extinguido.

La colonización nos arrincona cada vez más, reduciendo nuestras tierras. La extracción del oro contamina nuestros ríos y en sus riberas quedan piedras y tierra esteril, con una Ley publicada en octubre del año pasado, se ha dividido en cuadriculas la tierra de las comunidades y en diciembre se ha puesto a remate para ser entregadas a los mineros auríferos.

La extracción de madera está convirtiendo en desierto el bosque y con ello disminuyen nuestros alimentos, las medicinas, los recursos para la construcción de nuestras casas y el lugar que necesitan para vivir todas las especies y donde habita el espíritu de nuestros antepasados. Mientras se extraen estos recursos, se desprecia a nuestra cultura y se va deteriorando la gran riqueza del conocimiento tradicional, se traen nuevas enfermedades, se imponen nuevas necesidades y llega la pobreza que nunca antes habíamos conocido y cuando nos defendemos, se nos amenaza y encarcela. Viendo todo eso, formamos la FENAMAD en 1982, como la organización que nos representa y defiende a todos los pueblos indígenas de Madre de Dios. Hoy, que nos hemos agru-

Palabras de su Alteza Real el Príncipe de Asturias en el Acto de entrega del VI Premio Bartolomé de las Casas

Madrid, 13 de Marzo de 1997

Con mucho gusto acudo una vez más a la Casa de América para entregar el Premio Bartolomé de las Casas, creado para distinguir a las personas e instituciones que más hayan destacado en la defensa del entendimiento y concordia con los pueblos indígenas de América, en la protección de sus derechos y en el respeto de sus valores. Este Premio es, desde su primera edición en 1991, un claro testimonio de nuestra participación activa en la salvaguarda de las comunidades amerindias.

En 1996, el Jurado del Premio decidió concederlo «ex aequo» a la «FENAMAD» por su continua defensa en favor de los pueblos indígenas hermanos «no contactados» o «voluntariamente aislados» y a Guillermo Céspedes del Castillo, Catedrático de Historia de los Descubrimientos Geográficos, por haber dedicado su vida a la investigación histórica, contribuyendo con su obra a entendimiento y concordia con las comunidades indígenas americanas.

La «Federación nativa del Río Madre de Dios y afluentes» se creó en 1982 para responder a las necesidades que tenían las poblaciones indígenas de esta zona del Amazonas peruano y para hacer frente a las distintas amenazas que venían sufriendo sobre el elemento consustancial de su existencia: la tierra la riqueza, que les proporciona.

Desde 1986 ha realizado un trabajo ejemplar no sólo en la consolidación salvaguarda de los derechos de los Nahua y los Manu que habitan aquellos territorios, sino también en la promoción de políticas de salud y educación que potencian su identidad cultural.

Su último logro ha sido el reconocimiento de la Federación, respaldado por la Ley, como representante legítima de estos pueblos frente a las intromisiones d

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pados en comunidades nativas, representamos a las 47 comunidades asentadas en el ámbito del departamento.

Desde esa fecha la FENAMAD ha trabajado en defensa de los derechos de nuestros pueblos:
- atendiendo juicios para recuperar las tierras de las comunidades frente a la invasión de mineros.
- gestionando la liberación de contratos ilegales de madereros dentro de nuestros territorios comunales.
- poniendo freno a los abusos de los madereros contra la población no contactada.

También hemos impulsado programas de:
- reconocimiento y titulación de tierras.
- elaboración de una propuesta de Ley sobre asuntos mineros para las comunidades nativas.
- elaboración de las documentación para el establecimiento de la Reserva Comunal Amarakaeri.
- revalorización de los médicos indígenas y la medicina tradicional.
- becas para estudiantes secundarios y superiores.

Mientras nos encontramos en este proceso de defensa de nuestros derechos y avanzado en nuestro trabajo para lograr nuestro propio desarrollo, se nos ha presentado una nueva preocupación. En marzo de 1996, se entregaron tres millones de hectáreas de tierras de Madre de Dios para la explotación petrolera, a las empresas Mobil Exxon y ELF, donde habitan nuestros pueblos indígenas. En el llamado Lote 77, viven los pueblos indígenas *vora, amahuaca* y *mashco piro*, que viven en aislamiento voluntario, refugiados hacia las cabeceras de los ríos de las zonas más remotas, sobrevivientes de las terribles correrías del caucho, que ocasionaron los más trágicos sucesos de muerte, violencia y esclavismo a nuestros pueblos.

Su poco o ningún contacto con la sociedad nacional, los mantienen en un especial estado de vulnerabilidad, frente a las enfermedades desconocidas, que ya han ocasionado el exterminio a otros pueblos en similares condiciones. La presencia de la petrolera en sus tierrasconstituye una amenaza de gran magnitud. Por eso, la FENAMAD y todos los pueblos a los que representamos, que hemos vivido recientemente y de diversas maneras los graves efectos de los contactos con la sociedad nacional, nos sentimos en la obligación de alertar al gobierno y a las empresas, por la vida y la seguridad de nuestros hermanos. Por eso hemos trabajado seriamente para evitar situaciones irreparables.

El Premio Bartolomé de las Casas con el que ha sido reconocido nuestro esfuerzo, es un mensaje que nos dice que no estamos solos y que además de los que solo se interesan por el desarrollo petrolero, existen amplios sectores de la sociedad que se sensibilizan ante las amenazas a la vida, las libertades y el sano desarrollo de los pueblos indígenas que vivimos en el interior de los bosques.

Es un mensaje muy importante para nosotros porque nos reconforta y nos hace saber que nuestras preocupaciones son consideradas seriamente. Pero también es muy importante para el resto de los pueblos indígenas del Perú que, en su mayoría, se ven hoy afectados, sin consulta alguna, por una presencia petrolera que puede alterar definitivamente el futuro de sus hijos y nietos.

Por último creo que el premio es también importante para la sociedad peruana ya que es un llamado de atención sobre la importancia de proteger la riqueza cultural y humana que los diversos pueblos indígenas aportamos al país. ⌟

actividades petroleras indiscriminadas en sus tierras, consiguiendo que éstas se vigilen y obteniendo compensaciones económicas por los daños producidos.

Pero el compromiso de FENAMAD no se agota en la obtención de estos resultados, ya de por sí muy importantes. Por eso quiero destacar aquellos empeños suyos que miran sobre todo al futuro y al desarrollo de los pueblos y comunidades a las que dedican su trabajo.

Los pueblos «voluntariamente aislados» son los mejores conservadores y guardianes del medio ambiente y los ecosistemas de las zonas que habitan y en las que custodian sus territorios ancestrales. Por ello, debemos protegerlos.

A lo largo de los siglos han sabido crear una gran variedad de estrategias de adaptación al medio y unos sistemas de producción flexibles para adaptarse a los cambios y mantener lo que, en términos actuales, podríamos llamar un «desarrollo sostenible», por lo que debemos apoyarlos.

Asimismo, mucho se puede aprender de ellos, de la admirable economía con que optimizan los recursos de que disponen sin destruirlos, de su ingeniosa y eficaz adaptación al medio, de su paciencia para extraer de lo cotidiano las fórmulas más aptas para asegurar el mañana.

Los pueblos indígenas de América son nuestros compatriotas en la Comunidad Iberoamericana de la que tanto nos enorgullecemos. Forman parte íntegramente de nuestro pasado y también de nuestro presente, y tienen sus derechos propios que tenemos obligación de respetar.

Este es el significado de la doctrina de Bartolomé de las Casas, actual y vigorosa en nuestros días y capaz de superar positivamente el uso malintencionado que de ella se ha hecho en el pasado.

Don Guillermo Céspedes del Castillo, Catedrático de Historia de los Descubrimientos Geográficos, en la Universidad Complutense de Madrid, ha dedicado la mayor parte de suvida profesional al estudio del entendimiento y concordia, a lo largo de la Historia, entre España y América.

Como Jefe de Publicaciones y editor del Anuario de estudios americanos y miembro de la Real Academia de la Historia y correspondiente de las de Chile, México, Perú, El Salvador, Ecuador, Panamá, Uruguay, Bolivia, Puerto Rico, Guatemala, Santo Domingo y Salzburgo, ha difundido su pensamiento y contribuido a reforzar esta relación mediante numerosos libros, ensayos y artículos. Ha colaborado en importantes obras colectivas, como «La Historia social y económica de España y América» dirigida por el profesor Vicens Vives, en la que ha realizado los volúmenes dedicados a América en los Reinados de los Reyes Católicos y las Indias españolas en los siglos XVI y XVII.

En su figura se reconocen justamente los méritos de cuantos se dedican a analizar nuestra Historia común y a esclarecerla conforme a los últimos conocimientos y las técnicas historiográficas más actuales.

El profesor Céspedes nos enseña la lección imprescindible de cuanto hicimos en el pasado, ilustra nuestros errores para que evitemos repetirlos, y nos abre un nuevo horizonte de convivencia en la solidaridad que nos lleva a construir juntos una Comunidad de convicciones y afectos, capaz de edificar con energía y sin recelos la Iberoamérica que debe ser uno de los principales protagonistas del mundo del tercer milenio.

Al felicitar de corazón a quienes hoy han sido galardonados expreso mi confianza en que su espíritu y el de estos Premios, siga vivo y produzca los frutos que esperamos para reforzar nuestra unión y realizar mejor la tarea que nos reclama, para la que desde ahora os ofrezco mi concurso y apoyo. ⌟

BRASIL

Cuchillo

por el Instituto Socioambiental

La Resolución del Ministro de Justicia podrá reducir la Tierra Indígena Raposa-Serra do Sol en más de 300 mil hectáreas, legalizando enclaves de «garimpeiros» (buscadores de oro) y hacendados y sus vías de acceso, desarticulando un área única continua y amenazando con excluir más de 20 aldeas y otros sitios indígenas del perímetro a ser demarcado.

1. Caracterización de la Tierra Indígena Raposa-Serra do Sol

La Tierra Indígena Raposa-Serra do Sol está situada en el noreste del Estado de Roraima, en la región interfluvial formada por los ríos Surumú, Maú y Tacutú, alcanzando al norte las fronteras de Brasil con Venezuela y la Guayana (al este). Al oeste, del otro lado del río Surumú está ubicada la Tierra Indígena São Marcos, ya demarcada y homologada. Raposa-Serra do Sol está habitada desde tiempos inmemoriales por los pueblos *macuxi, ingarikó, wapixana, taurepang* y *patamona*. Existen registros de otros grupos étnicos que llegaron a habitarla en el pasado, pero que emigraron hacia el norte o fueron absorbidos por los macuxi. La población actual de la tierra indígena está estimada en 12 mil indígenas, organizados en casi 100 aldeas. Hay colonos y garimpeiros no-indígenas que viven ilegalmente en su interior, cuya población fluctua, pero debe estar actualmente situada en torno a las 2 mil personas.

Las estrategias de colonización y de ocupación de esta región fueron implementadas en diferentes periodos históricos por iniciativa de la Corona Portuguesa, de los gobiernos centrales del Brasil posindependentista, los gobiernos del Estado de Amazonas cuando estaba incorporado al territorio del actual Estado de Roraima y de los gobiernos del Territorio Federal de Roraima hasta su emancipación en 1988. No obstante, el mayor flujo de invasores no-indígenas ocurrió después de la primer gran retirada de garimpeiros del interior del Territorio Yanomami, en 1990. Los garimpeiros se trasladaron a Raposa-Serra do Sol, dónde organizaron núcleos habitacionales y prostíbulos, respaldados por los líderes políticos del emergente Estado de Roraima.

Sin embargo, las estrategias coloniales siempre tuvieron eficacia limitada, dadas las condiciones precarias de las tierras de la región para la práctica agrícola. Parte del territorio indígena se extiendo por el llamado «lavrado», planicie inundable constituida de gramíneas que se prestan a pasturas naturales, donde se instalaron «haciendas» que, en general, son sitios precarios, con habitaciones de madera, a partir de las cuales se practica la cria extensiva de ganado bovino. Otra parte está formada por las sierras, que integran el Macizo de las Guayanas, donde la ocupación colonial es reciente y basada en la actividad del «garimpo». Aunque toda esa área había estado ocupada permanentemente por los indígenas, los enclaves coloniales acabaron estableciéndose en su interior, intercalados entre las aldeas y demás sitios de ocupación indígena.

Los indígenas de Raposa-Serra do Sol practican aun sus actividades economicas tradicionales, la caza, la pesca, la recolección de frutos y de otros productos necesarios para la construcción de sus casas y su supervivencia en general. Pero también incorporaron algunas actividades económicas típicas de la región, como la cría de ganado, disponiendo de rebaños significativos, actualmente mayores que los que disponen los ocupantes no-indígenas. Hay, también, grupos de indígenas que hoy practican el «garimpo» manual de oro y de diamantes.

El proceso de reconocimiento oficial del área como territorio indígena se remonta a comienzos de siglo, desde que se establecieron las prácticas gubernamentales de demarcación. Ya en 1917, el Gobierno de Amazonas editó su Ley Estatal No. 941, destinando las tierras comprendidas entre los ríos Surumú y Cotingo a los indígenas macuxi y *jaricuna*. No obstante, su demarcación efectiva nunca tuvo lugar, y siempre

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sufrió una fuerte presión contraria por parte de los intereses económicos y políticos regionales.

A pesar de que los indígenas de la región estaban contactados desde el inicio de la ocupación del valle del río Branco, recién a partir de 1977 la Funai tomó previsiones con relación al reconocimiento de su territorio. En 1977, fue constituido un Grupo de Trabajo Interministerial para identificar el área, el cual, sin embargo, no presentó informe conclusivo de sus trabajos. En1979, un nuevo Grupo de Trabajo procedió a una identificación apenas parcial del área. En 1984 otro Grupo de Trabajo tampoco realizó trabajos conclusivos. En 1988, durante la gran resistencia al Proyecto Calha Norte, más de un Grupo de Trabajo Interministerial procedió al relevamiento de tierras y cartográfico del área sin llegar a ninguna conclusión sobre el conjunto del área. En realidad, el conocimiento oficial sobre el área se acumuló progresivamente, resultando en una propuesta de delimitación que fue aprobada por la Funai y enviada para la decisión competente del Ministro de Justicia en el año 1993. Desde entonces, aguarda su aprobación, a través de decreto ministerial, que debe determinar su demarcación física por la Funai. La extensión del área identificada es de aproximadamente 1.678.800 hectáreas.

El proceso de demarcación de la Tierra Indígena Raposa-Serra do Sol permaneció paralizado desde el inicio del actual gobierno y fue sometido, durante el año pasado, al proceso de impugnación instituido por el decreto 1775/96. Las impugnaciones a los límites identificados fueron presentadas por los ocupantes no-indígenas y por el gobierno de Roraima. Al final de los plazos para el análisis de las impugnaciones presentadas, el Ministro de Justicia solicitó nuevas diligencias a la Funai acerca de éste y de otros siete procesos demarcatorios, las cuales deberían darse dentro de los 90 días siguientes. Al término de este nuevo plazo, el Ministro de Justicia visitó el área, se reunió con los indígenas y les dejó la impresión de que emitiría una decisión favorable a su pleito. Sin embargo, dos meses después, publicó en su Resolución No. 80 que, si bien rechazaba todas las impugnaciones presentadas, acaba proponiendo una importante reducción de la extensión identificada por la Funai. Fue la primera vez, en los años 90, que el gobierno federal formuló una propuesta de reducción de tierra indígena.

2. La Resolución No. 80

La Resolución del Ministro de Justicia sobre la demarcación de la Tierra Indígena Raposa-Serra do Sol, aprobada el 20.12.96 y publicada en la víspera de Navidad, contiene una sucesión de errores y distorsiones que implican la violación de los derechos territoriales indígenas establecidos en la Constitución del Brasil, comentados a continuación.

2.1. En lo que respecta al proceso de identificación del área indígena

La resolución No. 80 comienza por historiar el proceso de identificación de esta área indígena, cometiendo, en esta parte, tres graves errores de información:

(a) Al remitirse al análisis de los primeros actos del Poder Público en reconocimiento del carácter indígena de esta área, practicados por el Estado de Amazonas a partir de 1917, el Ministro de Justicia relata la realización de un primer acto demarcatorio, a través de la ley No. 941, que había sido anulada y posteriormente revalidada a través de la expedición de un título de concesión. Ese primer acto demarcatorio fue implícitamente desconsiderado ya que el Ministro concluyó que «no obstante esta última información (la revalidación de la ley No. 941), no fue encontrado ni se tiene noticia de la expedición del mencionado título de concesión». A continuación, entonces, la transcripción íntegra del título que el Ministro no encontró:

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El Interventor Federal del Estado de Amazonas, haciendo uso de las atribuciones legales que le son conferidas y teniendo presente el artículo 1 de la ley No. 941, del 16 de octubre de 1917, y para la completa ejecución del acto del 11 de febrero del corriente año, que consideró válido el proceso de mediación y demarcación del lote de tierras comprendido entre los ríos Surumú y Cotingo y las sierras de Imairary-ipim y Conopiá-ipim, en el municipio de Bôa Vista de Rio Branco, para localización, dominio y aprovechamiento de los indígenas macuchys y jaricunas, en forma de los artículos 1 y 5 de la ley 941, del 16 de octubre de 1917, resuelve declarar que queda reservado para localización, domicilio y aprovechamiento de los indígenas macuchys y jaricunas el aludido lote de tierras, comprendido entre los ríos Surumú y Cotingo y las sierras de Imairary-ipim y Conopiá-ipim, en el municipio de Bôa Vista de Rio Branco, de este Estado.

Cúmplase.

Palacio de Gobierno, en Manaos, 17 de marzo de 1925

Alfredo Sá

Como se ve, la ley demarcatoria de 1917 fue revalidada en 1925, no pudiendo ser desconsiderada por el Ministro de Justicia, y no dando margen a la validación de cualquier acto de titulación u ocupación de la referida área.

(b) Más adelante, ya refiriéndose al proceso reciente de identificación del área indígena por la Funai, el Ministro de Justicia hace mención a «trabajos de 1981 que concluyeron para el área de 1.347.810 hás.», pretendiendo al final de su resolución, que los límites definitivos a ser demarcados observen, «en principio, la línea divisoria explicitada en el laudo de 1981». Ocurre que los referidos trabajos consistieron en estudios inconclusos, que no caracterizan un «laudo», incluso porque no hay ningún antropólogo que los suscribiera, y jamás fueron aprobados por la Funai o enviados para una competente decisión política delimitatoria. Siendo así, el Ministro no podría tomarlos como referencia en sustitución de la propuesta enviada por la Funai en 1993, subvirtiendo la expresa competencia del antropólogo en el proceso de identificación.

Cabe, sin embargo, resaltar que la propuesta de límites constante de la resolución ministerial suprime del área a ser definitivamente demarcada otras partes, referentes a pueblos y caminos, que constituyen tierra indígena en todos los límites ya estudiados, incluso el de 1981. Al tomar como referencia o como parte de la decisión sobre los límites definitivos antiguas propuestas, formuladas en distintos contextos políticos, el Ministro juega unas contra otras, atribuyéndoles el mismo grado de importancia para, al final, formular una propuesta propia, en la que la tierra indígena se reduce en mayor extensión que las demás. Aparentando intermediar los estudios de límites existentes, en verdad, el Ministro busca una supuesta solución intermedia entre la identificación de 1993 y la propuesta del gobierno de Roraima, de demarcar apenas pequeños sitios (o islas) alrededor de las poblaciones indígenas para liberar lo restante para los colonos y

garimpeiros regionales, propuesta ésta que fue expresamente rechazada, por ser inconstitucional, por el propio despacho ministerial.

(c) En otra parte de su resolución, el Ministro afirma que el laudo antropológico que fundamenta la propuesta de la Funai de 1933 es «absolutamente silencioso» y «no contiene fundamento específico alguno que demuestre» la ocupación indígena de la parte del área que había sido excluida en los estudios de 1981. No obstante, esta parte del área situada en la planicie al sur del área identificada en 1993, donde, además de localizarse varias aldeas, se concentran los ríos y lagos perennes, está abundantemente referida en el laudo antropológico, como también en las informaciones adicionales elaboradas por la Directora de Asuntos referentes a la Tierra de la Funai a pedido del propio Ministerio de Justicia. A título de ejemplo, extraemos del laudo antropológico las siguientes citas:

El área interfluvial Surumú-Maú (Ireng), los principales afluentes del río Tacutú, una de las vertientes del río Branco, comprende, al sur, extensas planicies, conocidas en la literatura como campos naturales, recubiertas por gramíneas ralas y pequeños arbustos esparcidos, y al norte...

Durante un breve período de transición entre las estaciones, la vegetación de los campos, hasta entonces sumergida, reverdece, y los animales dejan los refugios de los sectores de las planicies que quedan libre de la inundación y que están aislados en las sierras, para recorrer su hábitat más extenso; los indígenas que se mantenían dispersos en pequeños grupos domésticos, vuelven a reunirse, aglutinando las familias extensas en aldeas, realizando expediciones de caza, y otras actividades de explotación económica.

En los meses de verano, la vegetación de los campos se torna seca y contraída, el follaje verde se va restringiendo a las bajadas próximas a los márgenes de los ríos y canales, que en su mayor parte son intermitentes y dejan de verter agua, secándose. Los indígenas acuden a los pozos de los lechos secos y a los lagos que conservan agua, procurando sorprender a los animales que buscan bebederos en los mismos lugares, y dedicándose a su actividad principal, la pesca.

Tales actividades deben ser entendidas como parte integrante del conjunto de procedimientos de explotación y producción, emprendidos por la totalidad de los grupos locales en toda el área en cuestión, constituyendo un sistema de circulación y distribución de recursos de largo alcance, imprescindibles para la supervivencia física y cultural de los pueblos indígenas.

En efecto, los límites referidos en los estudios de 1981, adoptados indebidamente por el Ministro como parámetro para la delimitación definitiva, dejan fuera, además de algunas aldeas, a la mayor parte de las palmeras *burí*, de las pasturas y los lagos perennes utilizados por los indígenas para la pesca, comprometiendo sus actividades de subsistencia.

2.2. En cuanto al carácter continuo de la Tierra Indígena

La resolución ministerial contiene varias referencias sobre la validez del laudo que basa la identificación de 1993. A continuación se transcriben algunas de ellas:

En mérito, el relevamiento antropológico, conclusivo en cuanto a la ocupación tradicional indígena del área en cuestión, goza de presunción juris tantum de veracidad,...

La propuesta demarcatoria del área bajo análisis, de forma continua, para preservar la unidad cultural de los grupos indígenas que la habitan, corresponde, así, a los postulados constitucionales, instituidos en el art. 231, 1, de la Carta Republicana.

No obstante, la resolución afirma antes que, «la conformidad de la propuesta demarcatoria de la Funai, en sus líneas generales, con el paradigma constitucional, no impide, sin embargo, algunos pequeños ajustes, dictados por el interés público en preservar núcleos poblacionales no-indígenas, ya consolidados, en resguardar situaciones jurídicas establecidas por el propio Poder Público Federal». Y pasa a determinar que la Funai substraía partes del área identificada que implican una reducción y segmentación del área continua. Vale la pena analizar cada uno de los dos «pequeños ajustes» pretendidos por el Ministro de Justicia.

2.3. En cuanto a la exclusión de las «villas»

El Ministro considera como «centros poblacionales consolidados» a las llamadas zanjas de Uiramutã, Surumú, Mutum, Socó y Agua Fría. Y atribuye al «interés público» la desafectación de las áreas en que ellas se sitúan, excluyéndolas del perímetro a ser demarcado. Sin embargo, en ningún momento el texto ministerial informa que las referidas villas se tratan de núcleos habitacionales de garimpeiros y prostíbulos.

Efectivamente, el gobierno del Estado de Roraima, que históricamente se opone a la demarcación de áreas indígenas, estimula la invasión de ésta y de otras áreas y realiza inversiones en infraestructura de apoyo a los núcleos de garimpo, incluida la apertura de carreteras, sin que se pueda, no obstante, considerarlos como «centros poblacionales consolidados». Se practican allí varias actividades ilegales, como la extracción depredadora de minerales, robo de ganado, contrabando y prostitución. No obstante, en los últimos años se observó un significativo proceso de despoblación de estos núcleos, en virtud de la reducción de los yacimientos «garimpables», lo que provocó, incluso, la iniciativa del gobierno local de promover el asalaramiento de parte de esta población para que permaneciese allí, forjando una hipótesis de crisis social, con el objetivo de impedir la demarcación del área.

También se inscribe en esta estrategia colonial del gobierno de Roraima, la creación de municipios con sede en el interior de tierras indígenas, siendo el caso del Municipio de Uiramutã, recién instalado dentro de la Tierra Indígena Raposa-Serra do Sol. Se trata de un ejemplo caricaturesco del absurdo fenómeno de proliferación de municipios que no tienen ninguna condición de sustentabilidad presupuestaria, que el país gustaría ver corregido en la oportunidad de las anunciadas reformas políticas.

Hay, por lo menos, cinco buenos motivos para que no se pueda argumentar el «interés público» para excluir las referidas áreas del perímetro a ser demarcado: (a) la violación sistemática de la ley y de las costumbres por los núcleos invasores; (b) la apropiación indebida de los recursos naturales; (c) la ocultación deliberada y generalizada de impuestos debidos a los Poderes Públicos correspondientes a la extracción de minerales; (d) la destrucción de la vegetación, el desbarrancamiento y la polución de mercurio de los ríos y canales de la tierra indígena; y (e) la sucesión de conflictos entre indígenas y no-indígenas, que resultaron en, por lo menos, 11 indígenas muertos en los últimos ocho años.

El Ministro de Justicia alega en su resolución que la decisión de excluir las áreas invadidas estaría fundada en la

decisión del Supremo Tribunal Federal que se negó a reconocer el recurso judicial presentado por el gobierno federal, vía el Ministerio Público Federal, contra la realización de las elecciones para la instalación del Municipio de Uiramutã. Sin embargo, la decisión del STF se limitó a considerar inadecuada la vía procesal adoptada en el caso, no implicando la desconsideración de las áreas de las villas como parte integrante de la Tierra Indígena. A pesar de que pesen las consideraciones de mérito constante del voto del dictaminador, muy cuestionables, la decisión del STF significó que la prueba de que se tratase de tierra indígena sólo podría ser producida en procedimiento judicial ordinario, a través de pericia técnica antropológica, imposible en el contexto de la acción propuesta. Por lo tanto, el argumento judicial de que el Ministro se apropió consiste en un sofisma y resulta de una distorsión, aparentemente deliberada, del significado de la decisión del STF.

Evidentemente, frente a la decisión del STF, no podría el acto demarcatorio desconstituir, por si mismo, el municipio creado y habría que convivir en esta situación absurda de un municipio con sede en tierra indígena, mientras que las instancias competentes del poder judicial pudiesen decidir sobre la acción ordinaria en trámite, que discute la cuestión. O hasta que el buen sentido de las elites políticas venga a tomar providencia en relación a la proliferación de la creación, por fuerza de los intereses político-electorales de las direcciones regionales, de municipios reconocidamente inviables.

Además, el Ministro de Justicia argumenta que en las áreas en que se sitúan las villas no se observan ninguno de los cuatro componentes de la definición constitucional de tierras indígenas. Pero la resolución omite la información fundamental de que existen aldeas indígenas (Uiramutã, Socó, Surumú, Agua Fría) enclavadas en cuatro de las cinco villas mencionadas, además de varias otras que se sitúan en sus entornos. Ahora, si hasta el componente de habitación indígena permanente en ellas se verifica, ¿cómo se puede alegar la inaplicabilidad de la definición constitucional? En realidad, la eventual exclusión de estas áreas implicaría una flagrante violación constitucional.

Súmese además que las actividades ilegalmente desarrolladas por los garimpeiros no se limitan al entorno de las villas donde se sitúan sus casas, extendiéndose por los ríos y canales que atraviesan el territorio indígena, contaminando sus aguas. La ocupación garimpeira provoca, además, otros daños, disminuyendo los recursos de la flora y de la fauna, además de provocar frecuentes conflictos directos con los indígenas.

2.4. En cuanto a los títulos incidentes y la hacienda Guanabara

Los equívocos ministeriales anteriormente indicados, de desconsiderar la demarcación de 1917 y los atributos de ocupación indígena de la parte sur del área identificada en 1993 y también de considerar el «laudo de 1981» como referencia para la definición de límites, mostraron la conclusión absurda de validar títulos expedidos ilegalmente por el Incra a partir de 1981. No obstante, el párrafo 6o. del artículo 231 de la Constitución es clarísimo al considerar «nulos y extintos, no produciendo efectos jurídicos, a los actos que tengan por objeto la ocupación, el dominio y la posesión de las tierras a que se refiere este artículo...». Ahora, si el Poder Público Federal practicó actos inconstitucionales, el Ministro no podría pretender corregir sus efectos a costa de parte del territorio indígena. Si el Ministro considera que los particulares merecen compensación a consecuencia de estos actos, debería ocuparse de indemnizarlos y de reasentarlos.

Sin embargo, al pretender adoptar los límites descritos en 1981, como forma de legitimar las titulaciones posteriores, el Ministro amenaza excluir de la demarcación a las áreas en que se sitúan otras ocho aldeas indígenas (Urubu, Preguicinha, Vista Alegre, Patativa, Jauari, Laje, Nativi y Matiri), además de otros sitios, retiros de cría de ganado, bosques de palmeras burí y lagos, utilizados para la pesca y la recolección por decenas de comunidades indígenas. En caso de que la referencia de límites de 1981 fuese también adoptada para el noreste del área, que no está mencionada en la resolución ministerial, otras dos aldeas, Canauapai y Canã, también serían incluidas en la demarcación. Si hasta aldeas que, en cuanto a habitación permanente, definen el primero de los criterios de definición constitucional de tierras tradicionalmente ocupadas por los indígenas, se sitúan en áreas que la resolución pretende excluir de los límites a ser demarcados, entonces se verifican también los demás criterios que, en el caso, son inclusivos.

Aunque, absurdamente, se pretendiese excluir las áreas tituladas de los límites a ser demarcados, no se podría adoptar la línea divisoria de los estudios de 1981. Primero, porque algunas de estas titulaciones inciden hasta incluso dentro de estos límites. Pero, principalmente, porque la extensión del área a ser eventualmente excluida sería muy superior a la extensión del área titulada, incluyendo las aldeas y demás sitios mencionados.

Más absurda aún, es la intención de la resolución ministerial de excluir el área denominada Hacienda Guanabara, supuestamente perteneciente al Sr. Newton Tavares, que fue blanco de investigaciones por parte del Consejo de Defensa de la Persona Humana, del propio Ministerio de Justicia, por violencias practicadas contra comunidades indígenas que habitan el área por él reivindicada. El Ministro argumentó, en favor de la exclusión, la existencia de sentencia proferida contra el Incra en acción discriminatoria que tuvo por objeto ese terreno. No obstante, el Incra perdió la referida acción por no haberse pronunciado dentro de los plazos procesales. Y, además, la vía procesal de la acción discriminatoria no se presta a discutir la posesión indígena sobre la tierra. Aún más grave, el Ministro omitió otra sentencia judicial, emitida por la Justicia Federal en acción promovida por el Ministerio Público Federal, teniendo específicamente al referido terreno como objeto, y que concluyó el reconocimiento de su carácter de ocupación indígena. A continuación la transcripción de la conclusión que consta de la referida sentencia:

Los autos demuestran, y el laudo pericial comprueba, que el área es tradicionalmente ocupada por indígenas.

Poco importa que el oponente haya ejercido posesión apacible y pacífica sobre el inmueble, durante años consecutivos.»

...

Poco importa que el oponente, Newton Tavares, ocupe el área hace décadas. Tal argumento no justifica su permanencia en tierras de dominio de la Unión, destinadas al usufructo permanente de la comunidad indígena que allí está.

...

Esto afirmado, JUZGO PROCEDENTE LA OPOSICIÓN y REINTEGRO A LA UNIÓN LA POSESIÓN DEL INMUEBLE objeto de esta acción, debiendo la Funai tomar las providencias correspondientes a la posesión y usufructo permanente de las tierras, por los silvícolas que la habitan.

Agréguese que en el área reivindicada por el Sr. Newton Tavares, se sitúan cuatro aldeas indígenas: Jibóia, Santa Cruz, Macaco y Amalia. Reconocer derechos a este ocupante ilegítimo representaría remover estas aldeas, violándose lo dispuesto en el párrafo 5o. del artículo 231, que prohíbe la remoción de grupos indígenas de sus tierras, excepto en algunas situaciones límites. El mismo dispositivo constitucional fue mencionado en la resolución para rechazar la impugnación del gobierno de Roraima a la identificación del área.

Como se ve, con pretexto de legitimar actos del Poder Público Federal que atribuyeron supuestos derechos de propiedad a particulares ocupantes de tierra indígena, el Ministro substituyó el papel del antropólogo al optar por una referencia de límite sin respaldo científico, adoptada sin el debido conocimiento sobre la existencia de ocupación indígena en áreas excluidas, además de omitir y distorsionar, más de una vez, el sentido de decisiones judiciales tomadas en relación al área. Al menos podría argumentarse la antigüedad de la ocupación y la titulación de estas partes del área, pues sobre la parte del área ya reconocida por la propia resolución como siendo indígena, inciden ocupaciones y titulaciones más antiguas, aunque igualmente ilegales.

2.5. En cuanto a las carreteras estatales

La resolución ministerial pretende, además, substraer del área identificada las carreteras que la recortan, con sus respectivas fajas de dominio. No contiene, sin embargo, la indicación clara de cuáles carreteras deberían ser incluidas en este intento, ni la extensión a ser excluida de los límites de la tierra indígena bajo pretexto de fajas de dominio.

Vale la pena recordar que los precedentes existentes en cuanto a la desafectación de las vías de transporte que atraviesan tierras indígenas, se refieren exclusivamente a ríos y carreteras que vinculan al Brasil con países vecinos, como el caso de los ríos Negro y Solimões y de la BR-174 (Autovía Manaos-Caracas). En el caso, las carreteras existentes son estatales y municipales, no habiendo ninguna de ámbito federal (excepto el acceso a la ciudad de Normandia), y sirven para la vinculación de las villas de garimpo y de las aldeas indígenas con la ciudad de Normandia y el resto del estado. Se confunde la garantía del derecho de ir y venir con el supuesto derecho de invadir.

En el caso de la BR-174, la faja de dominio corresponde a 50 metros de cada lado de la franja transitable. Si se aplica este parámetro (y aunque se decidiese por una faja de menor extensión) tres consecuencias nefastas afectarían la integridad del territorio indígena: (a) la segmentación del área única y continua en por lo menos cinco áreas separadas por fajas de dominio; (b) la amenaza de que varias aldeas situadas al borde de las carreteras queden parcial o totalmente fuera del área a ser demarcada como indígena; y (c) la posibilidad de instalación de nuevos focos de ocupación no-indígena a lo largo de las carreteras.

La aldea Preguicinha, por ejemplo, está situada en una curva de la RR-319 y quedaría totalmente fuera del área a ser demarcada. Lo mismo ocurriría en relación a varias casas de la aldea Raposa I, una de las más populosas. O, incluso, hay casos como el de la aldea Xuminá, situada a más de 50 metros de la RR-202, pero cuyos cultivos están localizados al borde de la carretera. Por lo menos 11 aldeas podrían ser afectadas, o hasta amenazadas de exclusión, en relación a la desafectación de carreteras ya existentes: además de las 3 ya mencionadas, Morro, Lilás, Tucumã, Guariba, Olho D'Agua, Cantagalo, Maracanã y Santo Antônio. Agréguese que el proyecto colonial del gobierno local sigue siendo ejecutado y están planeadas nuevas carreteras, o en construcción, ampliando las implicaciones negativas de esta decisión.

3. Conclusión

En vista de los argumentos e informaciones expuestas, la resolución No. 80 del Ministro de Justicia, si es ejecutada, implicaría una reducción que puede sobrepasar la cifra de 300 mil hectáreas de la extensión identificada de la Tierra Indígena Raposa-Serra do Sol, segmentándola en unas cinco partes, perennizando los enclaves garimpeiros existentes en su interior, viabilizando formalmente el acceso de nuevos contingentes poblacionales no-indígenas y excluyendo más de 20 aldeas del(de los) perímetro(s) a ser demarcado(s), además de decenas de otros sitios, retiros y reservas de recursos naturales indispensables para la supervivencia de los indígenas. Siendo así, es evidente el carácter lesivo e inconstitucional de la resolución ministerial.

La pretendida consolidación de la reducción y del desmembramiento territorial propuestos en la forma de un decreto ministerial delimitatorio, legitimaría las invasiones existentes y posibilitaría otras más, ampliando las situaciones de conflicto que ya suceden, hace muchos años, en esta región. Constituiría, además, un precedente reduccionista que podría incitar otras futuras reducciones de las tierras indígenas que están siendo o serán identificadas por la Funai.

Con el objetivo de reparar los errores aquí enunciados, el Instituto Socioambiental, en consonancia con los derechos y expectativas de los pueblos indígenas que ocupan tradicionalmente el área en cuestión, propone: (a) que sea dejada sin efecto la resolución ministerial No. 80; (b) que se expida un decreto ministerial declaratorio del Ministro de Justicia, reconociendo la ocupación indígena en toda la extensión del área identificada por la Funai desde 1993, determinando su demarcación física; y (c) que se haga efectiva la expulsión de los intrusos que están en el área indígena, teniéndose en consideración, cuando fuera el caso, los derechos a indemnización y reasentamiento de los ocupantes no-indígenas que se encuentran en la misma. ❑

ECUADOR El reto indígena

por Carlos Viteri Gualinga

El reloj del campanario marcó las seis, aquella fría mañana del miércoles 29 de enero de 1997. Los viejos portones de la catedral se cerraron en forma inusual, en el interior, feligreses y curas, sorprendidos y asustados no entendían lo que estaba ocurriendo, un grupo de 120 personas había irrumpido súbitamente en el centenario templo católico, que se yergue como reliquia arquitectónica del pasado colonial español. Los intrusos eran en su mayoría indígenas de la región andina quienes ingresaron con mochilas, cobijas, pancartas, botellas de refrescos, pan, cuerdas y tarros de pintura, portando la "Wypala" (con los colores del arco iris) como bandera o como bufanda.

La toma de la Catedral Metropolitana de Quito, fue el inicio de las acciones de protesta de la Coordinadora de Movimientos Sociales del Ecuador, integrada entre otras organizaciones por la Confederación de Nacionalidades Indígenas del Ecuador CONAIE. El hecho se sumó a las protestas callejeras protagonizadas por la Federación de Estudiantes Secundarios del Ecuador FESE.

Antes, el 11 de enero de 1997, las tres organizaciones sociales más grandes del Ecuador -Coordinadora de los Movimientos Sociales, Frente Popular y Frente Unitario de Trabajadores-, habían fundado el "Frente Patriótico", anunciando al mismo tiempo la realización de un "paro cívico" para el 5 de febrero, luego de firmar una declaración denominada "mandato popular", que tenía como objetivo lograr la salida de Abdalá Bucaram y cambiar el sistema político y económico vigente en el Ecuador desde 1979, año en que reinstauró el sistema democrático.

El domingo 2 de febrero los indígenas comenzaron sorpresivamente a bloquear las carreteras y el lunes 3 la CONAIE anunció el levantamiento nacional indígena. Aquello fue el inicio de una movilización a nivel nacional, mientras el Frente Patriótico anunciaba a última hora que el paro cívico sería de dos días.

¡Que se vaya! (Bucaram) fue la frase que expresó la gente en plebiscitos populares, manifestaciones, pancartas, paredes, autos y camisetas en todas las ciudades del Ecuador. Dos millones de personas se movilizaron en una protesta sin precedentes en la historia de este país sudamericano.

Los días 5, 6 y 7 de febrero, los ecuatorianos derrocaron al gobierno de Abdalá Bucaram calificado como el más corrupto, en sublevación pacífica. El viernes 7 de febrero a las 18 horas, tras 11 intensos días de ocupación, salieron de la catedral metropolitana los miembros de la Coordinadora y llegaba a su fin el levantamiento indígena.

Durante el paro cívico, la Coordinadora de Movimientos Sociales tomó la iniciativa desplazando al Frente Unitario de Trabajadores (FUT), esto fue uno de los hechos históricos, ya que por primera vez en 30 años, un paro nacional fue encabezado por una organización distinta al FUT, cuyos dirigentes inoxidables estaban vinculados al gobierno de Bucaram.

En la Coordinadora de los Movimientos Sociales participa la CONAIE, organización que reúne a una población (indígena) que constituye aproximadamente el 40% en un país de 11 millones de habitantes como es el caso de Ecuador.

¿Por qué los indígenas del Ecuador fueron co-autores de la destitución de Bucaram?

Abdalá Bucaram, conocedor de la representatividad y capacidad de convocatoria de la CONAIE, inició desde su campaña electoral un insólito coqueteo con los indígenas bajo el ofrecimiento de un ministerio, en cuya trampa cayó un sector de la dirigencia indígena de la amazonía ecuatoriana que en los últimos cuatro años había estado al frente de las organizaciones utilizando este espacio para promocionarse y catapultarse hacia objetivos electorales premeditados, no necesariamente previstos por las organizaciones.

Una vez en la presidencia Bucaram, ejecutó su plan con una política de control de las organizaciones, utilizando la estrategia del clientelismo que tenía como trasfondo la división de los indígenas.

En efecto, un líder del movimiento político "Pachakútik" -quien dirigía al mismo tiempo la Coordinadora Indígena de la Cuenca Amazónica COICA- tras su fracaso electoral en su intento por alcanzar la prefectura de la provincia amazónica de Napo, en la segunda vuelta electoral (febrero de 1996), anunciaba con bombos y platillos la firma de un curioso "Acuerdo de Cooperación Política, Científica y Tecnológica" con el candidato presidencial Abdalá Bucaram.

Esto significó la ruptura entre los candidatos indígenas amazónicos y andinos, los amazónicos se ganaron así la fama de gubernistas, las discrepancias más adelante involucraron a las organizaciones. Pachakutik inauguró su desafortunado ingreso a la arena electoral en la capitulación del más conspicuo acto de clientelismo mientras que en el discurso, sus activistas declaraban ser "alternativa y redentora de indios y mestizos pobres".

Pese al hermetismo sobre los términos del acuerdo, era vox populi que éste giraba en torno a la creación del ministerio étnico más unos cuantos puestos administrativos.

La oferta electoral hizo mella en algunas organizaciones indígenas amazónicas incluida la CONFENIAE (Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana), quienes ante el espejismo del

poder y sus "ventajas" no dudaron en utilizar los recursos, infraestructura e inclusive los planteamientos de las organizaciones en función de una precipitada campaña electoral carente de objetivos, divorciada de un proyecto social y matizada de evidentes intereses personales.

Los candidatos continuaron ejerciendo los cargos directivos de las organizaciones, utilizando de acuerdo a la conveniencia su condición de dirigente o candidato, confundiendo intencionadamente los ámbitos de la organización y del "movimiento político".

En la Región Andina, la participación electoral aunque con la misma precipitación tuvo una dinámica distinta, pues la consistencia ideológica de los dirigentes determinó una participación con mayor autonomía.

Curiosamente, esta improvisada participación electoral y los espacios allí captados incluido el ministerio indígena, fueron considerados como un "avance ejemplar" de los pueblos indígenas del Ecuador. Claro está que las ofertas políticas clientelares están muy lejos de catalogarse como conquistas, y en lo relacionado con los diputados, en un congreso como el ecuatoriano, donde domina una práxis política anacrónica y corrupta, los indios, o son asimilados o pasan inadvertidos en las decisiones de los bloques mayoritarios.

Una vez instalado Bucaram en el poder, la ruptura pre-electoral se acentuó involucrando a las propias organizaciones. Las organizaciones de la amazonía, con su fama de gubernistas, entraron en franca contradicción con las organizaciones de la sierra y la dirigencia de la CONAIE. Los primeros defendiendo la creación del ministerio étnico y los otros oponiéndose. Unos aceptando la "buena voluntad" del gobierno y otros calificándola como "Institucionalización de la segregación racial".

En el plano político los dos diputados indígenas de la amazonía se vinculan tempranamente al régimen mientras que los andinos se mantienen críticos al gobierno en sintonía con la dirigencia de la CONAIE.

Una vez creado el ministerio con el primer ministro indio: un *shuar* disidente de las filas evangelistas que logró ocupar la presidencia interina de la CONAIE, cargo del que fue destituído a mediados de 1996-, el objetivo del gobierno fue el de manipular los congresos indígenas para colocar en las dirigencias a sus simpatizantes y controlar a la mayor organización indígena del Ecuador, la CONAIE.

Frente a la estrategia de control de las organizaciones indígenas implementada desde el flamante ministerio étnico, la única organización que públicamente disintió en la amazonía fue la OPIP, Organización de Pueblos Indígenas de Pastaza, lo que la ameritó para que tanto las otras organizaciones *quichuas* cuanto las organizaciones Shuar y Achuar resolvieran "desconocer" a la dirigencia de la OPIP, por considerarla divisionista (¿?). La amazonía indígena transformada en una verdadera olla de grillos.

La nacionalidades indígenas denominadas "pequeñas" como Siona, Secoya, Cofán y Huaorani, se mantuvieron al margen de esta disputa política-burocrática trasladada hacia las organizaciones por obra y gracia del oportunismo de dirigentes y políticos fundamentalmente amazónicos.

Bucaram protagonizó una inédita guerra verbal contra la dirigencia de la CONAIE presidida por José María Cabascango, a quienes llegó a tildar de "pillos". El enfrentamiento entre la CONAIE y el gobierno llegó al clímax en diciembre de 1996, cuando el gobierno a través del ministerio étnico intervino abiertamente en el quinto Congreso de la CONAIE, en donde pretendió que se eligiera como dirigentes a elementos afines. Allí la CONFENIAE fue acusada de recibir dinero para tal efecto, lo cual no fue desmentido.

Posteriormente las oficinas de la CONAIE resultaron tomadas por asalto por elementos del grupo militar "ARUTAM" (integrado por indígenas shuar y quichua de la amazonía para los conflictos con Perú), encabezados por una dirigencia integrada en su mayoría por elementos shuar y campesinos de la Costa, simpatizantes del régimen. Antonio Vargas, quichua de Pastaza y miembro de la OPIP, que debía presidir esta dirigencia se niega a hacerlo por no contar con el reconocimiento de los indígenas andinos de la mayor organización regional, ECUARUNARI, a tiempo que busca salidas de consenso.

Un congreso extraordinario realizado en enero de este año le permitió a la CONAIE nombrar una dirigencia concertada, manteniendo en la presidencia a Antonio Vargas, con lo cual se alejaría la posibilidad de una CONAIE sumisa a Bucaram, mientras el amargo bocado de la decisión fue deglutido por el grupo alineado al ministerio étnico y, conformado en su mayoría por los dirigentes amazónicos con las excepciones señaladas.

Similar política a la adoptada con los indígenas, asumió Bucaram con otras organizaciones sociales (mujeres, sindicatos, maestros y estudiantes), gremios periodistas y todos quienes asumían una posición crítica frente al régimen.

La corrupción, prepotencia y el show transformados en política de estado, provocaron los hechos de 5, 6 y 7 de febrero de 1997, que destronó al gobierno de Bucaram.

Actualmente el Ecuador se apresta para lo que se ha denominado como "baño de moralidad". Todo lo actuado por el régimen depuesto está siendo investigado. La CONAIE, ha sido una de las organizaciones que se ha manifestado por que se investigue hasta las últimas consecuencias los actos de corrupción en donde se encuentran implicados indígenas.

En efecto, los diputados indígenas (hoy expulsados del movimiento Pachakutik) vinculados a Bucaram, figuran entre los principales acusados de corrupción por haber recibido dinero proveniente de fondos reservados a cambio de haber votado en favor de Bucaram, asunto que los ha colocado frente a una inminente destitución de parte del congreso nacional, que se apresta a levantarles la inmunidad parlamentaria junto a otros "honorables" diputados, como se autodenominan.

A esto se suman las cuentas que deberán rendir todos los ex-funcionarios del exministerio indígena.

La corrupción parece haber salpicado a la misma CONFENIAE, que se halla bajo investigación de la Corte Suprema de Justicia y la Contraloría del estado, por haber recibido dinero del gobierno anterior para fines aún no aclarados.

Estos hechos revisten mayor preocupación cuando los ex-funcionarios del exministerio étnico en alianza con los diputados, frente a la acusación que pesa sobre ellos y la posibilidad de una sentencia condenatoria en ciernes, en un afán de montar un supuesto "respaldo del pueblo" a su cuestionada actuación, se han convertido en peligrosos boomerangs contra las mismas organizaciones a las que se deben.

El 21 de marzo pasado algunos dirigentes propiciaron el asalto a las oficinas de la OPIP pretendiendo destituir a la dirigencia actual presidida por César Cerda por haber retirado públicamente el apoyo al diputado y solicitado su destitución por corrupto. Estas acciones se enmarcan en una estrategia de escala regional y nacional que busca separar a la CONFENIAE de la CONAIE. El objetivo es cubrir los actos de corrupción ante las comunidades

de base para mantener latentes su liderazgo y sus perspectivas políticas personales y de grupo.

Estos hechos que se viven en Ecuador en el ámbito de los pueblos indígenas resultan aleccionadores para las propias comunidades, dirigentes y organizaciones no gubernamentales. Aleccionadores para discernir los verdaderos proyectos colectivos. Para impulsar y apoyar procesos concebidos en el contexto de un proyecto comunitario de sociedad y desechar el asistencialismo inmediatista. Para mejorar la comunicación entre actores locales, dirigentes y ONGs. Eliminar errados conceptos de poder, el mismo que no radica en la ascensión de escanios, ni en la imitación del ritual burocrático "blanco", ni mucho menos en un cargo en los rincones de algún gobierno. En las sociedades indígenas el rigor del poder radica en la participación comunitaria.

Esta experiencia debe servir para desterrar definitivamente la corrupción. Para ello las organizaciones indígenas deben renovar los conceptos de organización social y política, crear instancias de fiscalización eficaces, ampliar los espacios de debate interno. En las iniciativas locales y familiares radica la fuerza y el conocimiento indígena. Lo fundamental es entender que los nuevos conceptos de poder deben reconocer que las organizaciones indígenas no son instancias homogéneas, al contrario son escenarios de confluencia de una socio-diversidad y una bio-diversidad.

Hacer de las organizaciones instancias de gestión de identidades diversa es el reto de la sociedad indígena del futuro.

Carlos Vitelli Gualinga es indígena quichua, antropólogo y periodista del diario Hoy *de Ecuador.* ❑

En el próximo número de Asuntos Indígenas continuaremos el debate sobre el movimiento indígena en Ecuador, con un artículo de la COICA.

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Los Pueblos Indígenas y la Conservación:

Declaración de Principios del WWF

Principios para la cooperación entre el WWF y las organizaciones de los pueblos indígenas[1] para la conservación de la biodiversidad en sus tierras y territorios, y para promover el uso sustentable de los recursos naturales

Preámbulo

1. Los pueblos indígenas viven en muchas de las áreas importantes de alto valor natural que aún subsisten. Esto testimonia sobre la eficacia de los sistemas indígenas de manejo de los recursos. Los pueblos indígenas y las organizaciones de conservación deben ser por ello aliados naturales en la lucha por conservar tanto un mundo natural sano como sociedades humanas sanas. Lamentablemente, en algunas ocasiones los objetivos de conservar la biodiversidad por un lado, y proteger y asegurar las culturas y los recursos indígenas por otro, han sido percibidos como contradictorios, en lugar de como dos propósitos que se apoyan mutuamente.

2. Los principios para la cooperación delineados en esta Declaración se derivan de la misión del WWF de conservar la biodiversidad, combinada con el reconocimiento de que los pueblos indígenas han sido con frecuencia guardianes y protectores de la naturaleza. Su conocimiento y sus sistemas sociales y productivos -sus culturas- están estrechamente acoplados a las leyes naturales que operan en los ecosistemas locales. Pero tales culturas acopladas con la naturaleza se han vuelto altamente vulnerables a las fuerzas destructivas relacionadas con el uso no sustentable de los recursos, la expansión de la población, y la economía global.

3. El WWF reconoce que las sociedades industrializadas tienen una gran responsabilidad en la creación de estas fuerzas destructivas. EL WWF cree que las organizaciones no-gubernamentales en general, junto con otras instituciones en el mundo entero, deben adoptar estrategias con los pueblos indígenas, tanto para corregir los desequilibrios políticos, económicos, sociales y legales, nacionales e internacionales, que generan estas fuerzas destructivas, como para enfrentar sus efectos locales. Los principios que siguen buscan proveer orientación para la formulación y la implementación de tales estrategias.

I. Derechos e Intereses de los Pueblos Indígenas

4. El WWF admite que, sin el reconocimiento de los derechos de los pueblos indígenas, ningún acuerdo constructivo de cooperación puede alcanzarse entre las organizaciones de conservación y las organizaciones de los pueblos indígenas.

5. Debido a que los pueblos indígenas han sido con frecuencia discriminados y marginados políticamente, el WWF se compromete a realizar esfuerzos especiales para respetar, proteger y cumplir con los derechos humanos básicos de los pueblos indígenas, con sus derechos consuetudinarios y con sus derechos sobre los recursos, en el contexto de sus iniciativas de conservación. Esto incluye, pero no se restringe, a aquellos establecidos en la legislación nacional e internacional y en otros instrumentos internacionales.

En particular, el WWF acoge plenamente las provisiones sobre los pueblos indígenas contenidas en los siguientes instrumentos internacionales:

- *Agenda 21*
- *Convenio sobre la Diversidad Biológica*
- *Convenio 169 de la OIT (Convenio Sobre Pueblos Indígenas y Tribales en Estados Independientes)* [2]
- *Proyecto de Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas* [3]

6. El WWF aprecia las enormes contribuciones que los pueblos indígenas han hecho al mantenimiento de muchos de los más frágiles ecosistemas de la tierra, y reconoce la importancia del conocimiento indígena y los derechos sobre los recursos para la conservación de esas áreas en el futuro.

7. El WWF reconoce a los pueblos indígenas como legítimos arquitectos de y con-

trapartes en las estrategias de conservación que afectan a sus territorios.

8. El WWF admite el derecho de los pueblos indígenas sobre las tierras, territorios y recursos que tradicionalmente han poseído, ocupado o usado, derechos que deben ser reconocidos y efectivamente protegidos, como lo establece el Convenio 169 de la OIT.

9. El WWF reconoce el derecho de los pueblos indígenas a ejercer control sobre sus tierras, territorios y recursos, y a establecer en ellos los sistemas de manejo y gobierno que convengan mejor a sus culturas y necesidades sociales, respetando la soberanía nacional y actuando en conformidad con los objetivos nacionales de conservación y desarrollo.

10. El WWF reconoce, respeta y promueve los derechos colectivos de los pueblos indígenas a mantener y disfrutar de su patrimonio cultural e intelectual.

11. En conformidad son el Artículo 7 del Convenio 169 de la OIT, el WWF reconoce el derecho de los pueblos indígenas a decidir en asuntos tales como las tecnologías y los sistemas de manejo a ser usados en sus tierras, y apoya su aplicación en la medida en que sean ambientalmente sustentables y contribuyan a la conservación de la naturaleza.

12. El WWF reconoce que los pueblos indígenas tienen el derecho a determinar las prioridades y estrategias para el desarrollo o la utilización de sus tierras, territorios y otros recursos, incluyendo el derecho a requerir a los Estados que obtengan su consentimiento libre e informado, antes de aprobar cualquier proyecto que afecte a sus tierras, territorios y otros recursos.

13. El WWF reconoce y apoya los derechos de los pueblos indígenas a mejorar la calidad de sus vidas, y a beneficiarse de manera equitativa y directa de la conservación y el uso sustentable de los recursos naturales dentro de sus territorios.

14. En instancias en las cuales múltiples grupos locales reclaman derechos sobre recursos contenidos en territorios indígenas, el WWF reconoce los derechos primarios de los pueblos indígenas, basados en demandas históricas y en una presencia duradera, con el debido cuidado por los derechos y el bienestar de otros legítimos participantes.

15. El WWF respeta los derechos de los pueblos indígenas a disfrutar de una manera equitativa de cualquier beneficio económico o de otra índole, proveniente de su propiedad intelectual y su conocimiento tradicional, sobre la base de las provisiones del Convenio sobre la Diversidad Biológica.

16. En conformidad con las provisiones del Convenio 169 de la OIT, el WWF reconoce el derecho de los pueblos indígenas a no ser removidos de los territorios que ocupan. Cuando la reubicación de esos pueblos sea considerada necesaria como una medida excepcional, deberá efectuarse sólo con su consentimiento libre e informado previo.

II. Objetivos de Conservación

17. Al centro del trabajo del WWF se encuentra la convicción de que los sistemas naturales, los recursos y las formas de vida de la Tierra deben ser conservados por su valor intrínseco y para el beneficio de las generaciones futuras.

El WWF basa todo su trabajo de conservación en los principios contenidos en su Misión institucional.

Adicionalmente, el WWF acoge plenamente las provisiones sobre conservación de la diversidad biológica y desarrollo sustentable contenidas en los siguientes documentos:

- *Agenda 21*
- *Convenio sobre la Diversidad Biológica*
- *Convenio sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres (CITES)*
- *Convenio sobre la Protección de Humedales de Importancia Internacional (Convenio de Ramsar)*
- *Cuidar la Tierra*

18. El WWF promueve y apoya las actividades de desarrollo ecológicamente sanas, particularmente aquellas que vinculan la conservación y las necesidades humanas. El WWF podrá no apoyar, y podrá oponerse activamente, a las actividades que juzgue no sustentables desde el punto de vista de las especies o los ecosistemas, o que no sean consistentes con las políticas institucionales sobre especies en peligro o amenazadas, o con acuerdos internacionales que protegen la vida silvestre y otros recursos naturales, aún si esas actividades son llevadas a cabo por comunidades indígenas.

19. El WWF busca el establecimiento de acuerdos con comunidades locales, grupos de base, organizaciones no gubernamentales, gobiernos, corporaciones, instituciones financieras internacionales y otros grupos, incluyendo comunidades indígenas y organizaciones de pueblos indígenas, que compartan el compromiso del WWF con los siguientes objetivos de conservación:

i) Conservación de la biodiversidad: conservar la diversidad biológica a niveles genético, de especies y de ecosistemas; mejorar el conocimiento y la comprensión sobre las especies y los ecosistemas; proteger especies amenazadas de animales y plantas; mantener las funciones de los ecosistemas; mantener las áreas protegidas y mejorar su manejo.

ii) Uso sustentable de recursos: asegurar que la cosecha de recursos naturales sea sustentable; apoyar el manejo de los recursos silvestres renovables por parte de lo miembros de las comunidades, de acuerdo con necesidades culturales y de subsistencia; usar métodos de reciclaje cuando sea apropiado; usar métodos y tecnologías eficientes en el empleo de los recursos; y sustituir recursos no renovables con recursos renovables cuando sea posible.

iii) Prevención de la contaminación: impedir, siempre que sea posible, descargas de substancias dañinas para el ambiente, y asegurar que los productos y los procesos no sean contaminantes.

III. Principios para la Cooperación

20. Los siguientes principios gobernarán: (i) las actividades de conservación del WWF en tierras y territorios de los pueblos indígenas; (ii) las relaciones de colaboración del WWF con las organizaciones de los pueblos indígenas; (iii) las relaciones de colaboración del WWF con otras organizaciones cuyas actividades puedan tener impacto sobre los pueblos indígenas.

21. Siempre que promueva objetivos de conservación, y en el contexto de su participación en actividades de conservación que afecten tierras y territorios de pueblos indígenas, el WWF instará a los gobiernos a «tomar las medidas que sean necesarias para (...) garantizar la protección efectiva de (...) [los] derechos de propiedad y posesión [de los pueblos indígenas]» sobre tales tierras y territorios, como lo determina el Convenio 169 de la OIT (Art. 14).

22. Previamente a iniciar actividades de conservación en un área, el WWF ejercerá la debida diligencia para:
-buscar información sobre las demandas históricas y el ejercicio actual de los derechos consuetudinarios de los pueblos indígenas en dicha área; e
-informarse sobre las provisiones constitucionales, la legislación y las prácticas administrativas relevantes para tales derechos y demandas, en el contexto del país al respecto.

23. Cuando las actividades de conservación del WWF se realicen en áreas donde los derechos consuetudinarios de los pueblos indígenas sobre los recursos estén en ejercicio, y/o existan demandas históricas para su reconocimiento, el WWF asumirá la obligación de:
-identificar a los representantes legítimos de las respectivas organizaciones de los pueblos indígenas en las primeras etapas del desarrollo de los programas; y
-proveer oportunidades de consulta entre el WWF y los pueblos afectados, de suerte que la información pueda ser compartida de manera continua y que los problemas, las quejas y las disputas relacionadas con las acciones de colaboración puedan ser resueltos de una manera oportuna.

24. En instancias en las cuales los estados u otros grupos interesados, incluyendo residentes antiguos, cuestionen los derechos de los pueblos indígenas, el WWF estará listo a asistir a los pueblos indígenas en la protección, a través de medios legalmente aceptados, de la base de sus recursos naturales, de manera consecuente con el cumplimiento de su Misión y dependiendo de la disponibilidad de recursos.

25. Cuando los derechos de los pueblos indígenas sobre los recursos sean cuestionados por gobiernos nacionales, corporaciones privadas, y/u otros grupos, y la defensa de tales derechos sea considerada relevante y significativa para el cumplimiento de su Misión, el WWF, en coordinación con y a solicitud de las organizaciones de los pueblos indígenas, y dependiendo de la disponibilidad de recursos:
-buscará y/o invertirá en el desarrollo de mecanismos legítimos y transparentes para resolver conflictos a los niveles local, regional, nacional el internacional, según sea apropiado;
-buscará la manera de asegurar que los derechos e intereses fundamentales de los pueblos indígenas estén bien representados en tales foros, incluyendo la inversión en informar y preparar a los representantes de los pueblos indígenas para que tomen parte en las negociaciones.

26. Consecuente con sus prioridades de conservación, el WWF promoverá y llamará a la implementación del Artículo 7 del Convenio 169 de la OIT: «Los gobiernos deberán tomar medidas, en cooperación con los pueblos interesados, para proteger y preservar el medio ambiente de los territorios que habitan».

27. El WWF no promoverá ni apoyará, y podrá oponerse activamente, a cualquier proyecto de conservación o desarrollo que no haya recibido el consentimiento informado previo de las comunidades indígenas concernidas, y/o que pueda afectar de manera adversa, directa o indirectamente, el ambiente de los territorios de los pueblos indígenas, o que pueda amenazar sus derechos. Esto incluye por ejemplo:
-actividades económicas u otras actividades de desarrollo;
-explotación de recursos naturales
-investigación orientada a fines comerciales o académicos;
-reasentamiento de comunidades indígenas;
-creación de áreas protegidas o imposición de restricciones sobre el uso de recursos de subsistencia;
-colonización dentro de territorios indígenas.

28. Con respecto al conocimiento de las comunidades indígenas, antes de iniciar actividades en un área particular, el WWF establecerá acuerdos con las organizaciones indígenas que representen a tales comunidades, para asegurar que ellas estén en condiciones de participar de manera plena en decisiones sobre el uso del conocimiento adquirido en o sobre el área que habitan, y se beneficien de modo equitativo de él. Estos acuerdos determinarán explícitamente las formas y condiciones bajo las cuales el WWF será autorizado a usar tal conocimiento.

29. En el contexto de su trabajo cooperativo con organizaciones diferentes a las que representan específicamente los intereses de los pueblos indígenas (incluyendo gobiernos nacionales, agencias donantes, corporaciones privadas y organizaciones no gubernamentales), el WWF:
-asegurará que dichos lazos de cooperación no impidan, y si es posible sirvan para, promover activamente los derechos humanos básicos de los pueblos indígenas y sus derechos consuetudinarios sobre los recursos;
-asegurará que toda la información relevante desarrollada a través de tales lazos de cooperación y accesible al WWF sea compartida con los representantes apropiados de los pueblos indígenas;
-asegurará que cualquier actividad de cabildeo o búsqueda de fondos, nacional o internacional, relacionada con los pueblos indígenas, sea llevada adelante en consulta con representantes de las organizaciones respectivas de los pueblos indígenas.

30. El WWF reconoce que la resolución de los asuntos relacionados con los pueblos indígenas puede requerir acción en la arena internacional, adicionalmente a las intervenciones nacionales. En aplicación de los principios precedentes, y en orden de ampliar su propia comprensión de los asuntos relacionados con los pueblos indígenas, nacional e internacionalmente:
-iniciará un proceso continuo de diálogo con los grupos representativos de los pueblos indígenas, sobre los principios para la acción común propuestos aquí.

31. El WWF se compromete a promover nacional e internacionalmente, siempre que sea posible y apropiado, la aplicación de todos estos principios en el contexto de las acciones de conservación en las tierras y territorios de los pueblos indígenas.

32. El WWF se compromete a emplear lo mejor de sus capacidades para mantener estos principios y el espíritu que los informa.

Notas

1) En este documento de posición institucional, así como en otros documentos oficiales de la institución, el WWF usa la definición de pueblos indígenas y tribales del Convenio 169 de la Organización Internacional del Trabajo (OIT). A menos que se diga expresamente lo contrario, el término «pueblos indígenas» incluye ambos conceptos - «indígenas» y «tribales».
2) Adoptado por la Conferencia General de la Organización Internacional del Trabajo el 27 de junio de 1989.
3) Grupo de Trabajo sobre Poblaciones Indígenas de la Sub-Comisión para Prevención de las Discriminaciones y Protección de las Minorías de la Comisión de Derechos Humanos de las Naciones Unidas, en su undécima sesión (documento E/CN.4/Sub.2/1993/29, Anexo I). ❑

Notas para una propuesta sobre pueblos indígenas y áreas protegidas

Por Gonzalo Oviedo Carrillo
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Resumen

En estas notas se proponen algunas ideas acerca de cómo conciliar los intereses de los pueblos indígenas con los objetivos de las áreas protegidas. El concepto central es que, sujeto a las normas y marcos legales acordados para la conservación de la diversidad y el manejo de las áreas protegidas en cada país, los pueblos indígenas deberían ser reconocidos como los legítimos propietarios y manejadores de las áreas protegidas existentes dentro de sus territorios; y que este modelo tiene el potencial de fortalecer el papel de los pueblos indígenas en la conservación de la biodiversidad y los recursos. Se sugieren algunas medidas prácticas en la mencionada dirección.

El WWF y los pueblos indígenas

1. El WWF adoptó en mayo de 1996 una Declaración de Principios sobre los Pueblos Indígenas y la Conservación, como resultado de un proceso de consulta interna y con las organizaciones de pueblos indígenas. Las ideas que contiene el presente documento están basadas en dicha Declaración, así como en las conversaciones que ha tenido el WWF con algunas organizaciones indígenas, en la búsqueda de una solución a la larga lista de conflictos existentes en el mundo entre pueblos indígenas y áreas protegidas.

2. Para el WWF, el reconocimiento de los derechos de los pueblos indígenas a las tierras y recursos es la base para asegurar la efectiva contribución de dichos pueblos a la conservación para tratar apropiadamente el problema de las áreas protegidas en los territorios de los pueblos indígenas.

3. Dos derechos complementarios, fundamentales para los pueblos indígenas, tienen que ser reconocidos al desarrollar y aplicar el Convenio sobre la Diversidad Biológica (CDB), y particularmente al desarrollar y aplicar las políticas sobre áreas protegidas en los territorios de los pueblos indígenas: el derecho que estos pueblos tienen para determinar las prioridades de desarrollo de los territorios ocupados y utilizados tradicionalmente por ellos, y su consentimiento previo, libre y fundamentado, para cualquier acción de conservación o desarrollo que tenga lugar en dichos territorios.

¿Qué es lo que los pueblos indígenas desean acerca de las áreas protegidas?

4. Se ha dicho algunas veces que los pueblos indígenas están opuestos a las áreas protegidas porque éstas han afectado profundamente sus derechos fundamentales. Esta afirmación puede ser verdadera en circunstancias específicas, donde ninguna solución se ha desarrollado o previsto para solucionar los conflictos existentes. Pero al parecer los pueblos indígenas no están opuestos a las áreas protegidas en general; lo que ellos desean es cambios fundamentales en la forma en que las áreas protegidas se designan y manejan. Más aún, en algunos casos los pueblos indígenas ven a las áreas protegidas como opciones reales para ayudar a proteger sus tierras y recursos de invasiones, de proyectos no sustentables de desarrollo, y otras amenazas a su vida, cultura y ambiente.

5. Los pueblos indígenas básicamente desean asegurar que las áreas protegidas[1]:
-no los despojen de sus derechos a la tierra y los recursos
-reconozcan y apoyen su derecho a la auto-determinación, que incluye el concepto de control territorial y transferencia de poder a sus instituciones tradicionales
-reconozcan y apoyen su derecho al auto-desarrollo
-se establezcan sobre la base de su consentimiento previo, libre e informado
-incorporen patrones tradicionales de conservación y utilización de los recursos, y fortalezcan las instituciones locales
-les proporcionen beneficios tangibles
-protejan eficazmente las tierras, los recursos, y la misma gente, de las amenazas externas

6. Estas demandas de los pueblos indígenas no contradicen los objetivos de las áreas protegidas; sin embargo, exigen cambios fundamentales en las políticas existentes al respecto, porque el problema actual es que, en la mayoría de países, las leyes y políticas de áreas protegidas que hoy existen no permiten la inclusión de este tipo de condiciones en la declaratoria y el manejo de las áreas protegidas dentro de los territorios indígenas.

El sistema de categorías de áreas protegidas de la UICN y los pueblos indígenas

7. El sistema existente de categorías internacionales para el manejo de áreas protegidas propuesto por la UICN en 1994 no contempla específicamente las mencionadas demandas y puntos de vista de los pueblos indígenas, y las características particulares que tales áreas protegidas deberían tener en los territorios indígenas.

8. Una Conferencia Internacional sobre Pueblos Indígenas, Medio Ambiente y Desarrollo realizada en Zurich en 1995, concluyó que «ninguna de las categorías (del sistema de la UICN) ha sido definida para garantizar el reconocimiento de los derechos de los pueblos indígenas a la auto-determinación y auto-desarrollo». La Conferencia recomendó que «en la próxima Asamblea General de la UICN se promueva una nueva categoría basada en el principio de la auto-determinación».

9. Esta es, entonces, una opción que ha sido sugerida: incluir una Categoría VII que podría llamarse Territorio Indígena. La Alianza Mundial de los Pueblos Indígenas y Tribales de los Bosques Tropicales, por ejemplo, declaró en su Carta (Artículo 43) que «las políticas y legislación ambientales deberían reconocer los territorios indígenas como 'áreas protegidas' efectivas, y dar prioridad a su declaración legal como territorios indígenas»; y, en su documento de posición presentado al CDB, la Alianza previno que, hasta que la noción de «territorio indígena» sea considerada ofi-

cialmente como «área protegida», los pueblos indígenas serían «muy cautos» acerca de la disposición contenida en el Artículo 8 (a) de dicho instrumento.

10. Un examen más detenido de las categorías V y VI del sistema de la UICN, sin embargo, muestra que, pese a su texto actual insuficiente desde el punto de vista de los pueblos indígenas, dichas categorías podrían ofrecer espacio para desarrollar el concepto de territorio indígena, ya sea como paisaje terrestre o paisaje marino protegido, o como área de uso múltiple. La condición para que esto suceda es que cualquier desarrollo futuro del concepto de territorio indígena como parte de las categorías V y VI, esté basado en las condiciones y demandas expresadas en el párrafo 5.

11. Sea cual fuere la opción seleccionada a nivel internacional, una conclusión es clara: muchos países alrededor del mundo necesitan incluir específicamente a nivel nacional una categoría de área protegida que esté basada en el concepto de *territorio indígena protegido.*

12. En concordancia con esta idea, las propuestas contenidas en este documento son:
-sugerir una serie de pasos que los gobiernos podrían tomar para poner en práctica nuevas políticas en los *territorios indígenas protegidos*, en aplicación de ya sea las categorías V o VI, o una nueva categoría enteramente diferente; y
-explorar la opción de incluir una subcategoría específica, dentro de las categorías V y VI, para los *paisajes terrestres/marinos protegidos en territorios indígenas* y *las áreas protegidas de recursos manejados (áreas de uso múltiple) en territorios indígenas.*

13. Existe una gran diversidad de situaciones en relación con este problema en los diferentes países del mundo, y las ideas presentadas aquí solo son generales. Cada situación nacional, e incluso local, requerirá una formulación de estrategias, itinerarios y herramientas específicos.

Posibles pasos para el establecimiento de territorios indígenas protegidos

14. Parece necesario primero identificar en qué casos un territorio indígena existente puede convertirse en área protegida, porque aparentemente no todas las tierras indígenas pueden designarse como tales.

El VI Congreso Mundial sobre Parques Nacionales y Areas Protegidas (Caracas, 1992) aprobó la siguiente definición de área protegida: «Una superficie de tierra y/o mar especialmente consagrada a la protección y el mantenimiento de la diversidad biológica, así como de los recursos naturales y los recursos culturales asociados, y manejada a través de medios jurídicos u otros medios eficaces» (UICN, *Directrices para las Categorías de Manejo de Áreas Protegidas*, 1994:7).

15. El examen de esta definición muestra que un área comprendida dentro de un territorio indígena puede convertirse en área protegida cuando:
a. un objetivo fundamental de su manejo es la protección y el mantenimiento de la diversidad biológica y los recursos naturales y culturales asociados;
b. ha sido legalmente designada, y/o es manejada por medios efectivos.

16. Adicionalmente, y en aplicación de lo propuesto en el punto 5., los territorios indígenas protegidos deberían:
c. estar basados en el reconocimiento legal de los derechos colectivos que tienen las comunidades indígenas que viven dentro de aquellos, a las tierras y recursos que dichas comunidades han poseído, ocupado o utilizado tradicionalmente;
d. ser designados por medios legales sobre la base de un acuerdo entre los representantes del pueblo indígena y el gobierno local, provincial, regional, nacional o federal, según sea apropiado[2]; o establecidos mediante acuerdos que se reflejen en otras medidas «efectivas» no legislativas[3];
e. ser manejados total o parcialmente por el pueblo indígena respectivo, sobre la base de un acuerdo de manejo o co-manejo con las autoridades gubernamentales respectivas, y de un plan de manejo formulado y adoptado conjuntamente[4].

17. Con el fin de cumplir estos requisitos, el proceso de establecimiento de *nuevas áreas protegidas* en territorios indígenas debería seguir básicamente los pasos siguientes:
-conjuntamente con los pueblos concernidos, o a su propuesta, identificar las tierras a ser protegidas;
-adoptar medidas para el reconocimiento legal de los derechos a la tierra y los recursos, ahí donde ésto no se haya hecho previamente; o, por lo menos, iniciar formalmente un proceso en esa dirección;
-establecer un acuerdo para la designación y el manejo, involucrando a las agencias gubernamentales respectivas (federales, estatales, provinciales, regionales o locales, según sea apropiado), y a las organizaciones indígenas concernidas;
-proceder a la designación legal o por otros medios igualmente efectivos;
-desarrollar un plan de manejo entre las agencias gubernamentales respectivas y los pueblos concernidos, con el apoyo y la participación de otros actores según sea necesario; adoptar las respectivas medidas técnicas, institucionales, financieras y demás, para asegurar la apropiada aplicación del plan de manejo.

18. En relación con las áreas protegidas establecidas en territorios indígenas con anterioridad, deberían darse pasos similares para resolver los conflictos existentes y atender los reclamos de los pueblos indígenas. Algunas medidas podrían variar, dependiendo de si las áreas bajo protección se sobreponen total o parcialmente con los territorios indígenas.

19. En el caso de una total sobreposición entre un área protegida y un territorio indígena, algunos pasos podrían ser los siguientes:
a. reconocer legalmente los derechos colectivos de las respectivas comunidades a la tierra y los recursos en toda el área, previo un proceso de resolución de conflictos de ser necesario; o, por lo menos, iniciar formalmente un proceso en esa dirección;
b. reclasificar el área como un *territorio indígena protegido*, en concordancia con las directrices a ser desarrolladas en el marco de un sistema internacional de categorías de áreas protegidas, y con las políticas adoptadas nacionalmente al respecto;
c. establecer un acuerdo de manejo entre el pueblo concernido y las autoridades del área protegida, tendiente a transferir poderes de control y manejo a las instituciones indígenas respectivas;
d. identificar los mecanismos para el monitoreo y la generación de información sobre la aplicación del plan de manejo, dirigida a las autoridades nacionales respectivas, a la población del país y la comunidad internacional, según sea apropiado;
e. preparar un nuevo plan de manejo, conjuntamente entre las respectivas autoridades y los pueblos concernidos;
f. identificar las instituciones indígenas locales a ser involucradas en el manejo del

La selva amazónica continúa sufriendo un acelerado proceso de deforestación. Foto: Alejandro Parellada

área protegida, sus respectivos roles, sus necesidades de fortalecimiento institucional, y la forma en que dichas entidades se relacionan con la estructura institucional más amplia encargada del manejo de las áreas protegidas en el país;
g. en caso de que el proceso conduzca a grandes cambios en el área (que puedan incluir definición de nuevas fronteras, adopción de nuevos objetivos, cambio de nombre, etc.), el área podría volver a ser designada, a través de los medios legales respectivos.

20. En caso de una sobreposición parcial entre el área protegida anteriormente designada y el territorio indígena, los siguientes pasos podrían reemplazar y/o complementar los arriba mencionados, según sea apropiado:
b. podría hacerse una nueva zonificación, como parte de la preparación de un nuevo plan conjunto de manejo. La nueva zonificación debería específicamente tratar las necesidades, intereses y objetivos de las comunidades indígenas;
c. un acuerdo de co-manejo podría ser establecido, para asegurar la consistencia de las responsabilidades de cada uno de los diferentes actores en el área protegida;
f. se podría reformar la estructura institucional del área protegida, de manera de incluir a las instituciones indígenas relevantes en el directorio encargado de la conducción y el manejo de toda el área (y/o de las áreas protegidas de la región respectiva).

Territorios indígenas protegidos en las categorías V y VI

21. La propuesta aquí, como se mencionó anteriormente, es explorar la opción de desarrollar sub-categorías específicas en las categorías V y VI, para los *territorios indígenas protegidos*. Por el momento se ofrece un concepto general para cada categoría, el mismo que tendrá que desarrollarse más adelante en detalle.

22. La categoría V es **Paisaje Terrestre/ Marino Protegido**. Esta categoría enfatiza el valor de las interacciones entre la gente y la naturaleza a lo largo del tiempo -lo cual es una característica de los territorios indígenas, e incluye importantes objetivos específicos relacionados con la conservación del patrimonio cultural. Dicha categoría también busca aportar beneficios a las comunidades locales, y contribuir a su bienestar, a través del suministro de productos naturales... y la prestación de servicios». El área permite la existencia de propiedad privada, lo cual deja espacio para el reconocimiento de los derechos indígenas a la tierra.

Esta categoría puede ser aplicada para proteger los territorios indígenas que tengan un valor escénico particular (donde, por lo tanto, el turismo, la recreación y la educación son o podrían ser objetivos importantes para el uso público), tanto natural (como montañas, costas, islas, etc.) como cultural (por ejemplo, vestigios de antiguas civilizaciones).

23. La categoría VI es **Área Protegida con Recursos Manejados**. Esta categoría apunta básicamente a asegurar la utilización sustentable de los ecosistemas naturales, y abarca el concepto de *área de uso múltiple*. Dicha categoría también permite la propiedad comunal sobre la tierra, y considera específicamente la opción de manejo por instituciones locales, o el co-manejo por órganos públicos o comunidades locales.

Esta categoría puede aplicarse para proteger territorios indígenas donde «por lo menos dos terceras partes» del área estén en «condiciones naturales», como lo requiere la definición de la Categoría. Aquí, el concepto de «condiciones naturales» debe ser interpretado básicamente como «ecosistemas naturales no-convertidos a otros usos», no como «ecosistemas intocados». En muchos territorios indígenas, por ejemplo aquellos en las regiones de bosque tropical, el uso tradicional de los recursos naturales por los pueblos indígenas no ha conducido a la conversión o la destrucción de los ecosistemas naturales, pese a que ha implicado una intervención humana sobre la naturaleza. La base para la designación de un área protegida bajo la Categoría VI sería, entonces, el deseo del respectivo pueblo de mantener por lo menos las dos terceras partes de su tierra bajo un uso regulado, que no conduzca a la conversión o la destrucción de los ecosistemas naturales, mientras que el resto de la tierra podría incorporar ecosistemas modificados para el uso humano, incluyendo tierras bajo agricultura tradicional y pequeños asentamientos humanos.

24. Es interesante notar que, pese a que ninguna de estas dos categorías en su definición actual incorpora específicamente la noción de territorio indígena, ambas ofrecen la posibilidad de desarrollarla, sin contradecir ninguno de sus respectivos objetivos y elementos principales.

Una tarea potencial para el CDB

25. El problema, como se dijo inicialmente, es que el marco legal y político existente en muchos países choca con la noción de territorio indígena protegido. Para proceder en la dirección sugerida, los países necesitan primero reformar sus instrumentos políticos y legales para las áreas protegidas. Las reformas más importantes que se necesitan se relacionan con la propiedad comunal de las tierras dentro de las áreas protegidas, y las responsabilidades de control y manejo. Adicionalmente, nuevos instrumentos legales y de política deberían incluir medidas sobre incentivos/desincentivos, disposiciones sobre distribución de beneficios, y herramientas de fortalecimiento institucional. Por último, aunque no menos importante, debe diseñarse un cierto número de nuevas soluciones e instrumentos técnicos para la implementación.

26. Para que este trabajo avance a nivel internacional, el CDB puede presentar una serie de recomendaciones a los países contratantes, con el fin de facilitar el desarrollo y el establecimiento de herramientas legislativas y de políticas orientadas en esta dirección. Tales recomendaciones pueden estar fundamentadas en un estudio que muestre:

a. Las formas a través de la cuales las áreas protegidas dentro de los territorios indígenas, manejadas o co-manejadas por comunidades indígenas a base de normas y métodos aceptados mutuamente, pueden contribuir a la conservación *in situ* de la biodiversidad.

b. Las formas a través de las cuales los derechos e intereses indígenas pueden coincidir con los objetivos de conservación en dichas áreas, en términos de aspectos tales como poderes policiales y de control sobre las tierras, métodos de manejo, normas de propiedad, distribución de beneficios, etc.

c. Las medidas que algunos países ya han adoptado o están planeando hacerlo, para reconciliar los objetivos de la conservación con los intereses y derechos indígenas.

27. Con el mismo fin, el CDB podría solicitar el apoyo de la Comisión de Parques Nacionales y Áreas Protegidas (CNPPA) de la UICN, para desarrollar, en conjunto con las organizaciones indígenas pertinentes, una propuesta-marco de política internacional sobre esta materia, basada en la inclusión de la noción de *territorios indígenas protegidos* dentro del sistema internacional de áreas protegidas, ya sea a través de una nueva categoría, o de una sub-categoría dentro de las categorías V y VI.

28. Al desarrollar tales análisis y recomendaciones, los órganos del CDB deberían asegurarse de que se hagan todas las consultas necesarias con las partes interesadas, y de que las organizaciones de pueblos indígenas en particular tengan la oportunidad de expresar completa y abiertamente sus deseos, preocupaciones y propuestas relacionadas con las áreas protegidas.

Notas

1)Este resumen está basado en varios casos específicos de demandas y propuestas presentadas por pueblos indígenas sobre áreas protegidas en diferentes países, así como en declaraciones y programas de organizaciones como la Alianza Mundial de Pueblos Indígenas y Tribales de los Bosques Tropicales, la COICA (Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica), y el Congreso Maorí de Nueva Zelandia.

2) Dicho acuerdo sería la expresión del principio del consentimiento previo, libre y fundamentado. De no haber acuerdo, no debería haber designación. También tiene relación con el principio de auto-desarrollo. Como parte de un nuevo modelo que reviste gran interés, la Agencia para la Conservación de la Naturaleza de Australia ha acordado con pueblos indígenas de ese país un proceso que denomina «auto-declaratoria», y que es una expresión del principio de auto-determinación. Véase *Self-declaration for Self-determination. Indigenous protected areas: A new approach to the use of Categories V and VI in Australia. (Auto-declaratoria para Auto-determinación. Áreas Protegidas Indígenas: un nuevo enfoque para el uso de las Categorías V y VI de la UICN en Australia)*, Peter Bridgewater e Ian Cresswell, GBF, Montreal, 1996.

3) En este caso, sin embargo, alguna forma de reconocimiento oficial sería también necesaria.

4) Esto podría ser parte del reconocimiento del derecho de auto-determinación, particularmente con respecto a los poderes de control y manejo, y del fortalecimiento de las instituciones locales encargadas de ejercerlos. ❑

PANEL INTERGUBERNAMENTAL SOBRE BOSQUES

Leticia, Colombia, 9-13 de diciembre de 1996

DECLARACION Y PROPUESTA DE ACCION

Todos los pueblos son descendientes del bosque. Cuando el bosque muere, nosotros morimos. Hemos recibido la responsabilidad de mantener el equilibrio en el mundo natural. Cuando cualquier parte es destruida, todo el equilibrio se sume en el caos. Cuando el último árbol se haya ido, y el último río se haya muerto, entonces la gente comprenderá que no podemos comer ni oro ni plata. Velar por la tierra es nuestra obligación hacia nuestros ancestros, quienes nos la pasaron para las futuras generaciones.

PREÁMBULO

Nosotros, los participantes en la Reunión Internacional de Pueblos Indígenas y Otros Pueblos que Dependen de los Bosques sobre el Manejo, la Conservación y el Desarrollo Sostenible de Todos los Tipos de Bosques,

RECONOCIENDO que los Pueblos Indígenas tienen el derecho a la autodeterminación y en virtud de tal derecho determinan libremente su posición política y buscan su desarrollo económico, social y cultural;

RECONOCIENDO que los bosques son el hogar de muchos Pueblos Indígenas y otros pueblos que dependen de los bosques, son fundamentales para su sobrevivencia como pueblos distintos, y forman la base de su sustento, cultura y espiritualidad;

RECONOCIENDO que casi todos los bosques están habitados;

RECONOCIENDO que el mantenimiento de la diversidad cultural y el bienestar de los Pueblos Indígenas y otros pueblos que dependen de los bosques es un aspecto fundamental del manejo sostenible de los bosques;

RECONOCIENDO que es esencial para el manejo sostenible de los bosques asegurar de manera estable y a largo plazo la tenencia de la tierra y los territorios;

RECONOCIENDO que los derechos humanos, el manejo sostenible de los bosques y la paz son interdependientes e indivisibles;

PLANES NACIONALES FORESTALES Y DE USO DEL SUELO

Los Planes Nacionales Forestales y de Uso del Suelo deberían promover una participación abierta, ser descentralizados, y asegurar un involucramiento amplio en su aplicación;

Los Pueblos Indígenas y otros pueblos que dependen de los bosques deben ser una parte integral del planeamiento nacional forestal y del uso del suelo;

Los derechos de los Pueblos Indígenas y otros pueblos dependen de los bosques a sus tierras y territorios, así como sus sistemas de tenencia, deben ser garantizados y respetados en una forma que sea apropiada para ellos;

Dentro del marco de la planificación nacional y regional, las decisiones sobre uso del suelo deben ser devueltas al nivel local, de manera que los Pueblos Indígenas y otros pueblos que dependen de los bosques puedan reafirmar sus sistemas consuetudinarios efectivos de manejo sostenible de los bosques;

Los derechos de los Pueblos Indígenas y otros pueblos que dependen de los bosques a su agricultura rotacional, cacería, recolección, pesca, pastoreo y otras formas de uso del suelo, deberían ser respetados y asegurados, dentro del marco de los programas forestales y de uso del suelo;

Todas las actividades de planeamiento de los bosques y el uso del suelo que afectan a los Pueblos Indígenas y otros pueblos que dependen de los bosques, deben respetar plenamente sus sistemas consuetudinarios de resolución de disputas;

Los programas nacionales forestales y de uso del suelo deben respetar los estándares internacionales sobre los derechos de los Pueblos Indígenas, con el debido respeto a los deseos de los pueblos involucrados, incluyendo el establecimiento y la aplicación de una legislación nacional adecuada.

Instar a los gobiernos nacionales a que respeten las comunidades y culturas Indígenas a lo largo de todas sus fronteras nacionales y a no continuar con las prácticas que dividen a los Pueblos Indígenas.

Propuesta para la Acción

1. El IPF debería reconocer la importancia del uso del suelo y el derecho a los recursos, así como reconocer también las leyes consuetudinarias y los sistemas legales indígenas, como materias inherentes relacionadas con los bosques.

2. Establecer mecanismos de participación en los procesos de planificación nacional forestal y de uso del suelo, que incluyan los siguientes elementos:

Acceso equitativo y plena participación de los Pueblos Indígenas y otros pueblos que dependen de los bosques en la planificación del uso del suelo y los programas forestales,

en todas las fases de planeamiento, implementación, monitoreo y evaluación.

Reconocimiento de los sistemas consuetudinarios de uso del suelo y de tenencia de la tierra de los Pueblos Indígenas y otros pueblos que dependen de los bosques, incluyendo agricultura rotacional, cacería, recolección, pesca y pastoreo, en todas las iniciativas, programas y proyectos.

Ninguna actividad debería ser implementada dentro de los territorios de los Pueblos Indígenas y otros pueblos que dependen de los bosques sin su consentimiento previo e informado, expresado a través de sus instituciones representativas, incluyendo el derecho de veto.

Ninguna actividad orientada al uso o la conservación de los recursos, incluyendo el establecimiento de áreas protegidas, debe iniciarse en territorios de los Pueblos Indígenas y otros pueblos que dependen de los bosques sin seguridad y respeto pleno por sus derechos territoriales.

Se debe incluir a los Pueblos Indígenas y otros pueblos que dependen de los bosques en los procesos de toma de decisiones a todos los niveles en áreas que los afectan, incluyendo las decisiones de política de las agencias internacionales de desarrollo, los bancos multilaterales de desarrollo y las corporaciones transnacionales.

Todo beneficio proveniente de los territorios de los Pueblos Indígenas y otros pueblos dependientes de los bosques debe ser, ante todo, de su propio uso local, y debe estar de acuerdo con los principios de beneficio compartido que ellos hayan establecido.

CAUSAS SUBYACENTES DE LA DEFORESTACIÓN Y LA DEGRADACIÓN DE LOS BOSQUES

La deforestación y la degradación de los bosques son exacerbadas por una falta de entendimiento de la cosmovisión holística y de las formas de vida de los Pueblos Indígenas y otros pueblos que dependen de los bosques;

Las causas subyacentes de la deforestación y la degradación de los bosques que requieren ser tratadas con urgencia incluyen:

La ausencia de reconocimiento y respeto de los derechos de los Pueblos Indígenas y otros pueblos que dependen de los bosques a sus tierras, bosques y otros recursos, por parte de los gobiernos y otras instituciones;

El problema creciente de carencia de tierra entre los campesinos pobres, a quienes se les niega el acceso a tierras que se encuentran fuera de los bosques, como producto de los sistemas inequitativos de propiedad del suelo, y a quienes tampoco se ofrece acceso a oportunidades económicas alternativas;

Las políticas gubernamentales y de sectores industriales privados, orientadas a la máxima explotación de los recursos forestales y mineros con objetivos meramente económicos. Estas políticas son a menudo incompatibles con políticas existentes de conservación de los bosques, e incluyen por ejemplo la sustitución forestal por plantaciones de árboles para la industria papelera; explotación petrolera y de gas por parte de corporaciones transnacionales; operaciones mineras incontroladas; establecimiento de depósitos de desechos nucleares en territorios indígenas.

Propuestas para la Acción

1. Se necesita desarrollar mecanismos de participación genuina, que permitan a los Pueblos Indígenas y otros pueblos que dependen de los bosques tener una voz decisiva en las evaluaciones sobre los procesos de deforestación y degradación de los bosques y en la evolución de las repuestas en materia política;

2. Instar a los gobiernos y otras instituciones a tomar medidas que reduzcan la presión de las sociedades industriales sobre los bosques, entre otras, reducción del consumo, reutilización, reciclaje y sustitución de productos forestales en la forma que sea más apropiada.

CONOCIMIENTO TRADICIONAL RELACIONADO CON LOS BOSQUES

El conocimiento tradicional relacionado con los bosques es esencial para las prácticas de manejo sostenible de los bosques;

El conocimiento tradicional relacionado con los bosques está íntimamente ligado a la propiedad y el control del suelo y los territorios por parte de los Pueblos Indígenas y otros pueblos que dependen de los bosques y al continuo manejo, uso y conservación de todos los tipos de bosques que ellos hacen.

Se debe reconocer y apoyar la contribución al desarrollo de las mujeres, a la protección y conocimiento indígenas;

La propiedad de los Pueblos Indígenas y otros pueblos que dependen de los bosques sobre sus conocimientos tradicionales e innovaciones contemporáneas relacionados con los bosques debe ser respetada y asegurada;

El uso de este conocimiento no debería tener lugar sin el consentimiento informado previo de los pueblos involucrados;

Los Pueblos Indígenas se oponen al establecimiento de patentes sobre las formas de vida y al Proyecto de Diversidad del Genoma Humano, así como a la imposición de derechos privados de propiedad intelectual sobre conocimientos y recursos indígenas colectivos.

Propuestas para la Acción

1. Establecer nuevos marcos legislativos y sistemas sui generis que reconozcan y protejan plenamente la herencia cultural y el conocimiento tradicional relacionado con los bosques de los Pueblos Indígenas y otros pueblos que dependen de los bosques. Estos deben estar basados en las leyes consuetudinarias y sus estructuras gubernativas.

2. Tomar nota de y apoyar las acciones y recomendaciones acordadas por la Conferencia de las Partes del Convenio sobre la Diversidad Biológica durante su tercera reunión, en relación con la implementación del Artículo 8(j) y otras áreas afines.

3. Establecer en la región Amazónica una universidad mundial de Pueblos Indígenas, que cuente con el apoyo de la comunidad internacional. Esta Universidad debería funcionar bajo la administración directa de los Pueblos Indígenas, con el objetivo de estudiar, promover y proteger las culturas, la cosmovisión y el conocimiento tradicional indígenas. Debería estar abierta a todos los pueblos y culturas.

4. El IPF4 debería apoyar los Principios y Directrices para la Protección del Patrimonio de los Pueblos Indígenas contenidos en el Informe Final de la Relatora Especial, Sra. Erica-Irene Daes (E/CN.4/Sub.2.1995/26), que cubre definiciones, transmisión del patrimonio, recuperación y restitución del patrimonio, programas y legislación nacionales, investigadores e instituciones académicas, mundo de los negocios y la industria, artistas y escritores, infor-

Foto: IWGIA

mación pública y educación, y organizaciones internacionales.

5. Realizar una serie de reuniones de expertos bajo los auspicios de la Comisión para el Desarrollo Sostenible (CSD) sobre desarrollo sostenible y manejo territorial, y en conexión con los temas de alianzas, acuerdos y marcos legales para la protección de la herencia cultural.

6. Instar a los gobiernos nacionales y la comunidad internacional a que apoyen programas de educación los cuales promuevan las prácticas de manejo sostenible de los bosques de los Pueblos Indígenas y otros pueblos dependientes de los bosques.

7. Ejecutar amplios programas de capacitación técnica sobre el uso sostenible del suelo y del manejo de los bosques, prestando especial atención a los colonos.

8. Apoyar los programas de intercambio de información entre los Pueblos Indígenas y las comunidades locales en temas relacionados con los derechos intelectuales y culturales, el conocimiento, las innovaciones y prácticas.

9. Desarrollar acuerdos de asociación sobre manejo sostenible de los bosques entre Pueblos Indígenas, otros pueblos de los bosques y otros grupos que habitan en los bosques.

10. Establecer un centro y un sistema de diseminación de información que permita el acceso de los Pueblos Indígenas y otros pueblos dependientes de los bosques a la información relevante. Deben hacerse esfuerzos para que esta información sea accesible de manera libre y amplia, en lenguas y formas que convengan a los Pueblos Indígenas.

AYUDA FINANCIERA Y TRANSFERENCIA TECNOLÓGICA

Propuestas para la Acción

1. La ayuda y mecanismos financieros deben dar cuenta pública transparente e incondicional. El IPF debería también crear las condiciones para que los Pueblos Indígenas y otros pueblos que dependen de los bosques diseñen sus propios mecanismos financieros.

2. Los Pueblos Indígenas y otros pueblos que dependen de los bosques deben continuar teniendo acceso directo y recibir ayuda y apoyo técnico toda vez que ellos lo soliciten. Cuando esta ayuda sea ofrecida por agencias gubernamentales y otros organismos, esta debe implementarse sólo con la aprobación de los Pueblos Indígenas y pueblos dependientes de los bosques.

3. El criterio de los donantes debería ir mas allá de la financiación de proyectos, y apoyar también la capacitación y el establecimiento de instituciones de Pueblos Indígenas y otros pueblos que dependen de los bosques.

4. Establecer un fondo independiente que permita a los Pueblos Indígenas y otros pueblos dependientes de los bosques una

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participación plena en el debate internacional de políticas forestales. El mecanismo financiero debería asegurar la participación independiente, justa e igualitaria de los pueblos de todas las regiones y de todos los tipos de bosques. Los Pueblos Indígenas deben formar parte de la administración de este fondo.

CRITERIOS E INDICADORES DE MANEJO SOSTENIBLE DE LOS BOSQUES

Todos los criterios e indicadores de manejo sostenible de los bosques y los principios de certificación deben asegurar el bienestar espiritual, cultural, social y material de los Pueblos Indígenas y otros pueblos que dependen de los bosques.

Propuesta de Acción

- Se debería apoyar a los Pueblos Indígenas y otros pueblos que dependen de los bosques a que realicen su propio inventario sobre los recursos forestales, y definir a nivel local los criterios e indicadores adecuados de manejo sostenible de los bosques;

INSTRUMENTOS Y MECANISMOS INTERNACIONALES

Todos los instrumentos y mecanismos internacionales futuros que traten sobre los bosques deberían involucrar a los Pueblos Indígenas y otros pueblos que dependen de los bosques, en calidad de partícipes igualitarios y en todas las etapas de los procesos de toma de decisiones.

Las áreas claves donde se debe actuar son participación a nivel internacional, acceso a información relevante, y acceso a financiamiento. Con el fin de participar en forma efectiva en los procesos de toma de decisiones, los gobiernos y otras instituciones deben otorgar el apoyo necesario para contribuir al fortalecimiento de las organizaciones de los Pueblos Indígenas y otros pueblos que dependen de los bosques.

Propuesta de Acción

1. Los Pueblos Indígenas y otros pueblos que dependen de los bosques deben continuar teniendo una representación creciente en los foros de las Naciones Unidas que tengan lugar en un futuro inmediato, incluyendo el IPF 4, la CDS 5 y la Sesión Especial de la Asamblea General de las Naciones Unidas en junio de 1997.

2. Se debería apoyar plenamente el establecimiento de un Foro Permanente sobre Pueblos Indígenas en las Naciones Unidas, en el marco de la Década de los Pueblos Indígenas de las Naciones Unidas, que reúnan los temas de derechos humanos, medio ambiente y desarrollo.

3. La Agenda 21 y los Principios Forestales deberían interpretarse en harmonía con el Borrador de la Declaración sobre los Derechos de los Pueblos Indígenas, poniendo especial atención en sus documentos al uso del término "pueblos".

COMPROMISOS PARA LA ACCIÓN

Los participantes se comprometen a sumir un plan de acción concreto que incluye lo siguiente:

Identificación de mecanismos de participación concretos para asegurar la plena e igualitaria participación de los Pueblos Indígenas y otros pueblos que dependen de los bosques en cualquier proceso de los bosques post-IPF, y del Convenio sobre la Biodiversidad.

Creación de una red global, regional y local para el flujo adecuado de información y propuesta de acción.

Planificar y buscar apoyo para un programa de acción que facilite a los Pueblos Indígenas y otros pueblos que dependen de los bosques la identificación de criterios e indicadores de manejo sostenible de los bosques que sean apropiados a la situación local;

Preparación de propuestas para la inclusión del conocimiento tradicional relacionado con los bosques por parte de los Pueblos Indígenas y otros pueblos de los bosques en programas de capacitación superior y profesional dentro de las naciones.

Preparar propuestas a nivel nacional para la educación de todos los pueblos, especialmente de los jóvenes, sobre la destrucción y degradación forestal y el papel de los Pueblos Indígenas y otros pueblos que dependen de los bosques en el manejo y protección de los recursos de los bosques.

Preparar propuestas para la realización de reuniones regionales entre Pueblos Indígenas y pueblos que dependen de los bosques, y propuestas para que las agencias de las NU y otros organismos exploren las implicancias de los instrumentos y acuerdos internacionales a nivel nacional y local.

Las organizaciones nacionales de Pueblos Indígenas deberían considerar la formación de alianzas con universidades para crear centros nacionales para la investigación estudio y acción.

CONCLUSIONES

La reunión solicita al IPF que incorpore estos principios y propuestas de acción en el informe final de IPF durante su cuarta sesión.

La reunión solicita también que la Declaración de Leticia y las Propuestas de Acción sean consideradas por la Comisión de Desarrollo Sostenible de las NU durante su 5ta sesión, así como también por la Asamblea General en su Sesión Especial y en todas las deliberaciones internacionales sobre los bosques.

La reunión solicitó difundir al máximo, entre los organismos pertinentes, la Declaración de Leticia y las Propuestas de Acción.

Se pondrá a disposición de todos los participantes en el IPF4 el informe completo de la Co-Presidencia de la reunión de Leticia. Todos los documentos relevantes también están disponibles electrónicamente en: ia.indig-tribal o en http://www.gn.apc.org/iaip/leticia

y desde el Secretariado Técnico Internacional de la Alianza Mundial de los Pueblos Indígenas Tribales de los Bosques Tropicales
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PAPUA NUEVA GUINEA

El impacto ambiental de la mina Ok Tedi

por Patricia K. Townsend y William H. Townsend

La mina OK TEDI es una gran mina a cielo abierto ubicada en la Provincia Occidental de Papúa Nueva Guinea colindante con Indonesia. La explotación del oro comenzó en 1984, la del cobre en 1987 y actualmente se explota un concentrado que contiene ambos minerales el cual es transportado por vía naval al extranjero para su fundición. La compañía minera Ok Tedi Mining Ltd. (OTML) fue creada por un consorcio de compañías transnacionales y el gobierno de Papúa Nueva Guinea (PNG)[1]. Su incumplimiento del acuerdo de construcción del planeado embalse de retención de sedimentos ha causado grandes daños ecológicos, acciones legales y la notoriedad internacional que será discutida posteriormente en esta reunión.

Antropólogos y geógrafos han tenido un papel prominente en la realización de estudios de impacto social y ambiental anteriores al comienzo de la actividad minera y en documentar los eventos subsecuentes a través de investigaciones a nivel local[2]. Mi participación ha sido un tanto diferente: Llegué al proyecto sin un exhaustivo conocimiento sobre la Provincia Occidental; mis investigaciones las he realizado primordialmente en la provincia de Sepik Oriental. Había sólo realizado una corta visita a la zona; «saltando» de aeródromo a aeródromo con el propósito de recolectar estadísticas sobre centros de salud (Townsend 1984) y visitado un estudiante graduado en el área.

De 1981 a 1984, mientras yo trabajaba para un instituto gubernamental de investigación de Papúa Nueva Guinea como médica antropóloga (IASER), mi esposo había sido empleado como ingeniero civil, para representar los intereses del gobierno de Papúa Nueva Guinea durante la fase de construcción de la mina Ok Tedi. Su título era el de vicedirector técnico de la Compañía de Desarrollo de Recursos Minerales con base en el Departamento de Minerales y Energía[3]. En su artículo «Regalando el río»(1988) documenta la historia de la fase de construcción de la mina; desahogándose de algunas de sus frustraciones en su intento de obtener un mínimo de protección para los intereses económicos y ambientales de Papúa Nueva Guinea.

Nuestra información sobre eventos acaecidos con posterioridad a diciembre de 1984, fecha en que dejamos el país, proviene principalmente de documentos publicados. Esto no es necesariamente una desventaja ya que nuestra intención es ver como lo que sabíamos (y lo que no sabíamos) sobre la fase de construcción ha influido en el desarrollo posterior del proyecto. Esto puede servir para alertar sobre riesgos similares en la etapa preliminar[4] a otros proyectos de explotación minera como por ejemplo el Frieda-Nena en la divisoria de aguas de Sepik.

El impacto contra el río Fly: una corta reseña literaria.

Dado el limitado tiempo disponible no voy a comentar el obvio y severo impacto sobre la población y el medio ambiente en la inmediata vecindad tanto de la mina como de la zona de infraestructura en el puerto fluvial de Kiunga. Tampoco voy a referirme al potencial impacto contra el bajo Fly o el

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Estrecho de Torres. Voy sólo a ocuparme del impacto que la actividad minera en Ok Tedi causa corriente abajo desde el sur de Ningerum hasta la confluencia con el Fly y el Fly medio hasta Obo, justo antes de la confluencia con el Strickland (Ver mapa).

El Fly es uno de los grandes ríos tropicales del mundo. A pesar de que apenas supera los 1.000 km de recorrido, iguala en caudal al Danubio, Zambezi y Níger (Smith y Bakowa 1994). Ocupa además, debido a la gran cantidad de lluvias en la zona, el primer lugar entre los ríos del mundo con respecto a caudal por unidad de área de cuenca. Después de abandonar las montañas el río serpentea, rodeado de lagos y pantanos, a través de terrenos llanos. Biológicamente es único por el número de especies ícticas y por el inusual tamaño de los peces. Hasta hace poco era un río casi desconocido pero según (Mowbray 1995:4): «Este sistema fluvial ha probablemente sido objeto de más investigación científica durante los últimos 15 años que cualquier otro río tropical del mundo».

El estudio del impacto ambiental (EIS), realizado por Maunsell y Asociados (1982), una empresa consultora australiana contratada por la OTML, se completó dos años antes del comienzo de la actividad minera. El EIS predijo que el aumento de los sólidos en suspensión y metales pesados (principalmente cobre) producirían severos efectos sobre la fauna íctica aguas abajo hasta Nigerum y posiblemente más allá. Estas predicciones tomaban como punto de partida la acordada construcción del embalse de retención de sedimentos, la limitación de descarga de rocas y mineral residual en el río[5] y una extracción diaria de 45.000 toneladas de mineral.

El embalse nunca se construyó, la descarga del mineral de desecho en el sistema fluvial fue aceptada y la cuota de extracción diaria fue dramáticamente aumentada[6].

La información recolectada por los científicos de la OTML documenta más de una década de daños a la calidad del agua y a la fauna fluvial los cuales se extienden gradualmente río abajo desde Ningerum al bajo Ok Tedi y al Fly medio. De los metales pesados que están penetrando el sistema fluvial el cobre es al cual más atención se le ha prestado. Si bien no es tan peligroso para los humanos como otros metales pesados, el cobre disuelto en las aguas presenta una severa amenaza a los peces e invertebrados acuáticos. En el tramo del Ok Tedi y el Fly medio del cual estamos hablando, los niveles promedio de cobre disuelto (medidos por la OTML en su monitoreo rutinario en 1991-92) oscilaban entre los 11 y 13 ìg/l, aproximadamente unas 50 veces más elevados que los valores en los lugares del río no afectados por los desechos de la actividad minera (Apte et al. 1995:72). Muestras de agua de los pantanos adyacentes recolectadas por un investigador independiente mostraron valores de hasta 50 ìg/l (Hettler y Lehmann 1995:1). Cualquiera de estos niveles puede ser categorizado como perjudicial para peces e invertebrados acuáticos. Otros vestigios de metales que han sido medidos en el agua del río no han preocupado mayormente a los científicos ambientales que trabajan en el área[7].

Pasemos del impacto químico al impacto físico contra el sistema fluvial: El mineral de desecho de la actividad minera ha afectado al río en formas previstas e imprevistas. Una predicción tentativa del EIS fue que la sedimentación sería insignificante aguas abajo de Ningerum. Habían calculado que en la meandrosa sección del bajo Ok Tedi los depósitos temporarios de pequeñas partículas alcanzarían una profundidad de 5 cm como promedio durante los primeros años de actividad minera. La máxima sedimentación del lecho del río sería de 10 cm y no se produciría hasta mucho después del cierre de la mina debido a la natural erosión de los depósitos de mineral residual.

El EIS predijo también que todos los residuos de la mina que llegasen al río Fly serían arrastrados por la corriente hasta el delta. La única parte del río Fly que sería afectada por la deposición de sedimentos sería el Fly medio inferior, un tramo con muchos meandros justo antes de la confluencia con el río Strickland. Esto ocurriría en los períodos de máximo caudal del Strickland el cual bloquearía el normal flujo de las aguas del Fly. Debido a que la máxima sedimentación calculada en el área fue de 30 cm no se consideró el riesgo de inundaciones como un problema (Maunsell y Asociados 1982, Vol 1, pág. 64).

Debemos hacer notar que el modelo computarizado mediante el cual el EIS produjo estas predicciones se basaba en un conjunto de suposiciones muy optimistas. Un grupo de consultores empleados por el Departamento de Minerales y Energía (Pickup y Higgins 1979, citado en Maunssel y asociados 1982, Vol.3, Doc. de trabajo nr. 5) produjo, con suposiciones ligeramente distintas pero siempre contando con la presencia del embalse de retención, una predicción más pesimista con respecto al grado de sedimentación.

A comienzos de la década del 90 el nivel del lecho del río había aumentado substancialmente con respecto a las predicciones. Datos de la compañía documentan en 1993 un incremento de 1 metro con respecto al nivel del lecho en 1984 en Kuambit, en el Fly medio (OTML 1993, citado en Hettler y Lehman 1995:25). Para ese entonces la OTML ya predecía que el nivel del lecho en Kuambit iba a aumentar unos 2,2 metros durante la vida productiva de la mina (Eagle y Higgins 1991:236)[8].

El estudio del instituto Starnberg, comisionado por el Departamento de la Misión Mundial de la Iglesia Evangélica de Baviera (Alemania), si bien muy parco en información y recibido con mucho escepticismo en amplios círculos (P.ej. Jackson 1993:155-156) sirvió para despertar la atención internacional sobre los problemas ambientales en Ok Tedi. La sedimentación y los bosques moribundos del bajo Ok Tedi fueron mostrados en sus fotografías (1991: 36,46). La internacionalización de la preocupación fue continuada por el Tribunal Internacional del Agua y por la Fundación Australiana de Conservación. Ninguna de ellas aportó información nueva o substancial, pero ambas fueron efectivas en lograr contactos con la prensa internacional

La mejor evidencia disponible sobre el impacto de los sedimentos de la mina contra las planicies fluviales proviene de dos fuentes: el antropólogo Stuart Kirsch (1993) que ha documentado las observaciones y preocupaciones del pueblo *yonggom* y los científicos ambientalistas Jörg Hettler y Bernd Lehmann (1995) cuyo trabajo fue financiado por el Programa Ambiental de las Naciones Unidas y que ha provisto el primer gran estudio independiente sobre calidad de aguas y sedimentación.

Kirsch ha comprobado que en 1988 una inundación en el bajo Ok Tedi arrastró consigo sedimentos residuales de la mina arruinando las planicies aluviales cultivables de la zona. Grandes depósitos de fango a lo largo de los bancos del río empezaron a introducirse en los riachos secundarios. A comienzos de los años noventa los árboles no morían sólo a lo largo de las orillas del Ok Tedi sino también tierra adentro en algunos lugares hasta a 4 km tierra adentro. Estos depósitos de los así llamados «cienos» presentan un problema particular ya que están compuestos de pequeñas partículas de tamaño similar lo que no permite el drenaje ni la aireación

necesarias para permitir el crecimiento de vegetación.

Desde el comienzo de la actividad minera el canal del Ok Tedi se ha vuelto menos profundo, más ancho y casi innavegable convirtiendo en peligrosos los viajes en canoa (la más normal forma local de transporte) debido a bancos de arena durante la época de aguas bajas y fuertes corrientes durante la época de aguas altas. Algunas poblaciones ribereñas han sido inundadas, incluyendo Atkamba, una gran aldea del pueblo yonggom. Si bien la mayor parte del trabajo de Kirsch ha sido en el Ok Tedi en 1992 también visitó las aldeas yonggom en la zona superior del Fly medio, desde Kiunga hasta la confluencia del Ok Tedi con el Fly, para documentar el impacto de la actividad minera.

Hettler trabajó principalmente en el Fly medio inferior en el año 1993 recolectando 117 muestras de agua y 156 muestras de sedimentos de la planicie fluvial. El resultado de los análisis de las muestras de sedimentos, recolectados en tubos de plexiglas de 1 a 1.5 metros de largo, es especialmente relevante para nosotros. Hettler recolectó estas muestras en una gran variedad de sitios incluyendo los dos tipos de lagunas existentes en la llanura fluvial: los valles bloqueados y los meandros cortados.

Las lagunas de meandros cortados que hasta tiempos recientes formaban parte del río tenían profundos depósitos (hasta 70 cm) de sedimentos ricos en cobre acumulados desde el comienzo de la actividad minera en 1984. Los valles bloqueados son lagunas de aguas poco profundas con un ritmo de sedimentación mucho mas lento. En estas antiguas lagunas, pruebas con carbono-14 demuestran que la sedimentación natural antes del comienzo de la actividad minera era inferior al milímetro anual. La sedimentación de estos lagos ha aumentado debido a las inundaciones desde el comienzo de la explotación minera: las muestras indicar que una capa significativa de sedimentos ricos en cobre provenientes de la mina ha sido depositada en las lagunas y ciénagas adyacentes al Fly (Hettler y Lehmann 1993:20).

Hettler y Lehmann concluyen como anteriormente lo han hecho otros científicos que el cobre es el elemento que más probablemente dañe el ambiente acuático. Su conclusión más preocupante es que los sedimentos depositados en la planicie fluvial y las ciénagas pueden tardar cientos de años en desaparecer. Cuando la mina cese de operar, la erosión podrá quizás liberar al río y sus bancos de los sedimentos metalíferos pero la llanura aluvial no va a poder ser desintoxicada de esta manera.

El impacto de la actividad minera sobre las cosechas de subsistencia

El impacto de la mina sobre la llanura aluvial ha sido relativamente desatendido. La posición del EIS era que las zonas terrestres del valle del río Ok Tedi y del Fly medio no se verían afectadas en absoluto por la mina, excepto por actividades como por ejemplo la construcción de rutas. Sólo la fauna y flora terrestre de los Wopkaimin y los Ningerum, los pueblos que habitan en la inmediata vecindad de la mina, serían afectados. Los sedimentos metalíferos iban a ser retenidos y las rocas de desecho iban a ser ubicadas en sitios especiales en las cercanías de la mina. Sólo a través de la erosión natural penetrarían los desechos de la mina el sistema fluvial y estos serían arrastrados por la corriente del río hasta el delta donde los efectos perjudiciales serían mínimos. Según este punto de vista, la actividad minera significaría solo una ligera aceleración del natural y constante proceso de erosión de la cuenca del río.

Ahora, por supuesto, todo es diferente; sabemos que la sedimentación ha levantado el lecho del río mas allá de todas las predicciones y que los sedimentos han cubierto tierras de cultivo afectando asimismo el sistema de drenaje de los pantanos. El impacto a largo plazo sobre las condiciones de producción de cosechas no ha sido estudiado debidamente y será seguramente significativo.

La palma de Sago (*Metroxlyon sp.*) es uno de los alimentos principales para todos los habitantes de la zona aguas abajo de la mina. Crece en las llanuras aluviales y ciénagas de toda Papúa Nueva Guinea logrando su mejor desarrollo en «pantanos poco profundos con inundaciones estacionales» (Paijmans 1980:9, ver también Townsend 1974). Demasiada agua, aguas muy estancadas o largos períodos de sequía afectan al sago limitando permanentemente su crecimiento y productividad. Durante nuestras investigaciones en Sepik notamos que las palmas más productivas crecían en las áreas pantanosas con mejor drenaje ubicadas al pie de las colinas en las cuales los *saniyo* construyen sus poblados. En el interior de los pantanos las palmas crecían más densamente, absorbían más agua, eran afectadas en su crecimiento y no llegaban a la madurez. Sin embargo eran buenas productoras de col de palmera (el brote superior y las hojas no desarrolladas) y hojas para techar chozas. Debido a que la sedimentación ha afectado las normas de inundación y drenaje de los pantanos de sago del área de impacto de Ok Tedi no es sorprendente que la productividad haya disminuido y ya se pueden anticipar efectos a muy largo plazo. Las observaciones de los yonggom, citadas por Kirsch (1993), son similares a los comentarios que escuché en la población de Mapisi, provincia de Sepik Oriental, sobre la disminución de la productividad de las palmas. La causa aparente fue un proyecto a una escala mucho menor: la construcción de un pequeño aeródromo que afectó el drenaje de los pantanos adyacentes. La reducción de la productividad fue percibida años después de la modificación del drenaje en Mapisi.

Las acentuadas inundaciones del Ok Tedi han dañado también las áreas de cultivo del banano, forzando a los yonggom a despejar sitios menos fértiles y más distantes de sus aldeas.

Dejando de lado el impacto físico de la sedimentación sobre el sago y las áreas de cultivo nos preguntamos si los metales pesados serán un problema para la producción de alimentos. Es difícil saber si esta es una preocupación realista. Nadie del EIS ha ni siquiera soñado en controlar las cosechas alimenticias de la zona. Es sabido que la presencia de metales pesados en alimentos presenta un riesgo sanitario. Un precedente preocupante es la toxicidad del cadmio en Japón. El arroz japonés contiene los niveles mas altos de cadmio en Asia debido a la irrigación de los campos de cultivo con aguas contaminadas por este metal. La exposición a largo plazo (más de 50 años) a elevados niveles de cadmio presentes en el arroz de los valles más afectados causó una epidemia del mal de Atai-Atai, literalmente enfermedad del ¡Ay! ¡Ay! debido a los severísimos dolores de huesos que son uno de los síntomas de la enfermedad junto con daños cardíacos y renales.

El hecho de que la contaminación de cadmio en el arroz amenaza la salud humana no implica necesariamente que el sago y las bananas cosechadas en las zonas aluviales sean igualmente vulnerables. Ninguna de ellas es un cereal ni tampoco son irrigadas. Sin embargo tanto el sago como la banana son cosechas de lenta maduración con una larga exposición que posibilita la absorción de los metales pesados en sus tejidos. Afortunadamente el cadmio no es tan abundante en los depósitos del Ok Tedi como el cobre. El punto

que queremos demostrar es que el potencial impacto de la mina fue definido tan limitadamente que excluyó desde el comienzo la recolección de información relevante a las nombradas preocupaciones

Controlando el flujo de información

La gran pregunta que debemos hacernos es: ¿quién controla la producción y el flujo de información? En relación con el Ok Tedi nos gustaría poder investigar los métodos mediante los cuales la OTML (el consorcio minero) y más específicamente la BHP (la corporación multinacional dentro del consorcio que tuvo acceso directo a los datos técnicos) pudieron controlar el flujo de la información en su favor y en detrimento no sólo de los propietarios de las tierras aguas abajo de la mina sino también del gobierno de Papúa Nueva Guinea, accionista del consorcio". Esta corporación decidió:

1) El tipo de información a recolectar.
2) El tipo de información a publicar y fecha de su publicación.
3) Los canales de publicación de la información.

1) El ejemplo mas indignante de la «no recolección de información» no es el de la información agrícola sino la geotécnica. Desde su primera visita a la mina en abril de 1981 mi esposo Bill, ingeniero civil de amplia experiencia, volvió con una abrumadora impresión: las cicatrices de pasados aludes indicaban la necesidad de estudios geotécnicos anteriores a la construcción del embalse hidroeléctrico, el embalse de contención de sedimentos y la decisión sobre la ubicación definitiva de la mina. Recomendó al gobierno que empleasen a un consultor de nivel internacional para realizar esta evaluación. El gobierno estimó que el costo de aproximadamente US$ 50.000 era excesivo y argumentó que estudios de ese tipo eran responsabilidad de la OTML. La compañía continuó los trabajos en los sitios de construcción de los embalses sin los estudios necesarios hasta que ambos sitios fueron sepultados por avalanchas. A pesar de su experiencia con el forzado abandono del sitio de construcción del embalse Ok Menga debido a deslizamientos de suelos, la OTML tampoco realizó el acostumbrado relevamiento de suelos del sitio de construcción del embalse Ok Ma. El costo total de los trabajos preliminares para estos dos embalses que nunca fueron construidos superó los US$ 150.000.000.- Una parte no revelada de esta suma fue recuperada a través de un seguro de construcción mediante un arreglo extrajudicial días antes de que el caso llegase a la Corte Suprema de Justicia de Papúa Nueva Guinea en 1989. (El gobierno de Papúa perdió por ambos lados ya que es accionista tanto de la compañía de seguros como del consorcio minero).

Una evaluación y un relevamiento geotécnico adecuado no fueron comisionados por la OTML sino hasta después de una gran avalancha de rocas, el deslizamiento del monte Vancouver en agosto de 1989, que casi destruye la planta procesadora. Una amplia evaluación de los riesgos geológicos fue realizada luego de este incidente. El geólogo consultor comentó secamente (Hearn 1995:51) «Este estudio difiere de la gran mayoría de los relevamientos de zonas de riesgo debido a que fue realizado de forma intensiva en base a un proyecto ya establecido en vez de, como es normal en estos casos, en sus etapas de factibilidad o planeamiento».

2) El control sobre el ritmo de presentación de la información fue y sigue siendo una necesidad estratégica para la compañía en su deseo de controlar todas las fases del proyecto. Una vez decidido que la información de monitoreo de calidad de aguas sería recolectada y analizada por la OTML, la directiva de la corporación controló su publicación. El primer informe para la última mitad del año 1982 no fue puesto a disposición del gobierno hasta diciembre de 1983 o sea después de la primera presentación, pidiendo la aprobación del esquema de retención de sedimentos. Cuando finalmente publicaron estos primeros informes, relacionados con un período de mucha construcción pero anteriores al comienzo de la explotación minera, ya indicaban altísimos niveles de contaminación con metales pesados. La dirección del consorcio poseía ya al menos información preliminar sobre la cual basar sus negociaciones. Si el gobierno hubiese dispuesto de esta información hubiera evaluado el esquema de retención de manera diferente enfatizando mucho más la presencia de metales pesados y quizás hasta habría insistido en atrasar el proyecto hasta que la construcción de un embalse de retención adecuado estuviese finalizada.

El atraso de la publicación de los informes ambientales se convirtió en una regla. Richard Jackson un geógrafo sin antipatías contra la operación minera regaña suavemente a la Compañía por ocultar los informes ambientales (Jackson 1993:161). Cita por ejemplo un informe de 1990 que si bien debía ser de dominio público sólo lo pudo obtener de forma subrepticia. Concluye que no hay razón para suponer que los laboratorios de la compañía hayan falsificado datos sino que son renuentes a publicar su propia y comprometedora información, la cual indica que ni siquiera han sido capaces de mantener las reglas ambientales que ella misma pudo dictarse, las cuales por cierto son mucho más tolerantes que las de otros países.

Algunas decisiones han sido forzadas en las reuniones de directorio de la OTML en base a información parcial y detalles claves ocultados a los miembros gubernamentales del mismo. Un ejemplo sería el informe de Whaler y asociados sobre el emplazamiento del embalse de retención. Este señalaba el sitio del Ok Ma superior como mucho más apropiado que el Ok Ma inferior (W.H. Townsend memo del 29 de abril 1983). Sin embargo la mesa directiva consideró sólo el posteriormente malogrado sitio del Ok Ma inferior debido posiblemente a que el antedicho reporte fue entregado al equipo técnico gubernamental con posterioridad a la reunión.

3) De la misma manera en que la compañía transnacional logró controlar el ritmo de presentación de la información también logró controlar los canales mediante los cuales la información económica y ambiental era publicada. Los directivos de la empresa consiguieron mediante el acceso directo a los líderes políticos, posibilidad denegada a los empleados públicos responsables del proyecto, concesiones que de otro modo hubiesen sido sometidas a un control mucho más estricto.

Para investigadores como nosotros, publicaciones científicas en revistas y actas de conferencias son la principal fuente de información sobre la mina. No tenemos acceso a la gran cantidad de literatura «gris», que incluye las Investigaciones Ambientales de la OTML y los informes mensuales del Programa 6 de Monitoreo Ambiental[10]. Leyendo las muchas publicaciones de los equipos científicos del OTML así también como publicaciones de científicos no empleados por la empresa pero que han utilizado información y apoyo logístico suministrado por esta, me encuentro con inexplicables «omisiones». Una omisión especialmente interesante para mi es la aparente ausencia de información publicada sobre contenido de metales

pesados en el tejido celular de peces[11], a pesar de que el estudio de impacto ambiental propone procedimientos para controlar su presencia. En la conferencia para el estudio del lecho del Estrecho de Torres (1991) el Sr. Ross E.W. Smith, representante de la OTML, reseñó el programa completo de control biológico refiriéndose a la recolección de muestras de tejidos de las especies ícticas más abundantes para controlar sus contenidos de cobre, zinc, cadmio y plomo. Sin embargo no informó sobre los resultados ni mencionó la eventual continuación de estos trabajos con posterioridad a 1985.

Conclusiones

Nuestra intención inicial al titular este documento «Regalando el río: continuación» fue sólo sugerir que retomábamos un proyecto que habíamos abandonado años atrás. Desafortunadamente nuestro estudio sobre la evolución de los acontecimientos durante la última década permite múltiples interpretaciones del título. Una nueva interpretación sería que el gobierno de Papúa Nueva Guinea continúa «regalando el río» en la medida que acepta costosos daños ambientales a cambio de una mínima remuneración económica proveniente de las ganancias y los impuestos de la mina, los cuales deberían haber sido utilizados para el desarrollo del país y de su población[12]. Otra interpretación del título sería que, debido a la inexistencia del embalse de retención, el impacto ambiental de los sedimentos ha desbordado el mismo río penetrando en la llanura aluvial con sus lagos y pantanos donde los efectos nocivos continuarán durante muchísimo tiempo. Para finalizar, un sentido metafórico sobre el río «regalado» sería el permiso concedido al consorcio transnacional para controlar el flujo de información y utilizarlo sólo en favor de sus propios intereses.

Notas

1) A comienzos de los años ochenta, los propietarios de la mina eran: la compañía australiana BHP (30%), la firma americana AMOCO Minerals (30%), un grupo de empresas alemanas (20%) y el gobierno de Papúa Nueva Guinea (20%). Debido a una serie de ventas y fusiones que no discutiremos aquí, los actuales dueños son: BHP (52%), INMET Mining Corp of Canada (18%) y el gobierno de Papúa Nueva Guinea (30%). La BHP se ha convertido hace poco en la compañía minera más grande del mundo mediante la adquisición de la empresa minera americana MAGMA.

2) Algunos de los que han sido particularmente activos son: David Hyndman (1994), Richard Jackson (1993), Robert Welsch (Jackson, et al. 1980), Stuart Kirsch (1993), David King, Nicole Polier, Frederick Barth (Barth y Wikan n.d.), Pamela Swadling (1983) y Mark Busse (1991).

3) Nunca hubo director excepto por un corto período, pero eso es otra historia.

4) Este documento es parte de una extensa obra en proceso de finalización; un libro de texto donde desarrollamos un caso ejemplar para concientizar a los ingenieros sobre el contexto social de su profesión a la vez que enseñamos a los especialistas en ciencias sociales algo de ingeniería. Mi esperanza es que podamos, mediante la utilización de una común perspectiva ecológica superar las barreras disciplinarias entre la antropología y la ingeniería de manera similar a lo que está sucediendo con la antropología médica (McElroy y Townsend 1996, Townsend y McElroy 1992) la cual conecta los tratamientos biomédicos y antropológicos de las enfermedades.

5) Originalmente el acuerdo de Ok Tedi estipulaba un límite de 60 millones de toneladas de mineral de desecho en las zonas de descarga del sur.

6) La cuota diaria de extracción fue aumentada mediante negociaciones de 45.000 a 70.000 toneladas (Jackson 1993:159). La extracción diaria de material varía pero el promedio es de unas 180.000 toneladas al día, de las cuales 80.000 son mineral y el resto roca de desecho (Eagle y Higgins 1991:233). Esto significa a grueso modo la extracción y transporte de unos 75.000 metros cúbicos de roca por día.

7) Sin embargo Lutz Castell, el científico que contribuyó con el reporte del instituto Starnberg (1991:49-51) estaba particularmente preocupado por la presencia de arsénico, zinc, cadmio y plomo además del cobre. La Fundación Australiana de Conservación ha expresado su preocupación sobre el abandono, por parte de la OTML, del monitoreo del contenido de zinc, cadmio y plomo en las aguas, sedimentos, flora y fauna a pesar del hallazgo de altas concentraciones de cobre, plomo y cadmio en cangrejos (Rosenbaum y Krockenberger 1993:11-12).

8) Esto implicaría una aun mayor agradación del lecho del Fly medio inferior debido a la gran diferencia de caudal con respecto al río Strickland (Hettler y Lehmann 1995:25). Además niveles aun más altos pueden ser causados por la erosión con posterioridad al cierre de la mina.

9) El gobierno de Papúa Nueva Guinea tiene, como accionista, un interés en la rentabilidad de la mina que es similar pero no idéntico al de los otros accionistas. Por ejemplo, en el caso de la retención de sedimentos, el gobierno tiene un interés a largo plazo en lo qué suceda luego del cierre de la mina tanto en lo que respecta a los daños ambientales como en la posibilidad de reprocesamiento de los sedimentos retenidos mediante nuevas tecnologías.

10) Hyndmann (1994:99-100) comenta sus dificultades con respecto al acceso a dicha información.

11) Smith y Bakowa (1994:194) se refieren a altos niveles de cobre en los hígados y riñones de bagres provenientes de una de las lagunas de meandro cortado del Fly medio. La Fundación Australiana de Conservación ha tenido acceso a reportes de la OTML de 1993 sobre altos contenidos de metales pesados en tejidos de cangrejos (ver nota 7).

12)Si bien Ok Tedi representó un 47,1% del total de las exportaciones en 1990 ha contribuido sólo con un 2,5% a los ingresos del estado principalmente en forma de impuestos salariales, aduaneros y viales (Anere 1993:221). La compañía no pagará impuestos a las ganancias hasta 1998, año en que termina la fase de recuperación de inversiones. Hasta fines de 1990 no se habían pagado dividendos a los accionistas a pesar de que el gobierno de Papúa Nueva Guinea es dueño del 30% de las acciones de la OTML (Jackson 1993:50).

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Agricultura (swidden) en

Asociacion para la Promocion de los Pueblos Indígenas
y Montaneses de Bangladesh (BIHPAA) Dhaka, Bangladesh

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1. Resumen

La agricultura «swidden», también conocida como la agricultura de «corte y quema», ha sido practicada en la región de Chittagong Hill Tracts, en el sureste de Bangladesh, desde tiempos inmemoriales. Hasta hace tres décadas, la agricultura «swidden» era el pilar fundamental de la economía de Chittagong Hill Tracts. Aunque ya no es así, la agricultura «swidden» todavía juega un importante papel en la economía de los indígenas de Chittagong Hill Tracts. Desafortunadamente, en los años recientes, los planificadores del desarrollo no sólo han ignorado el importante papel de la agricultura «swidden» en Chittagong Hill Tracts, sino que la han acusado de la deforestación endémica y de la erosión del suelo de la región.[1]

Desde el siglo pasado, un importante porcentaje de la población indígena ha abandonado los cultivos «swidden» en favor de los cultivos con arado. Más recientemente, desde la década de los 60 y 70, un gran número de agricultores indígenas se han dedicado a la horticultura orientada al mercado y a la plantación de árboles, en gran medida a causa de la constante disminución de las cosechas de las tierras «swidden» superexplotadas. No obstante, la agricultura «swidden» es todavía practicada por un importante porcentaje de la población indígena de la región, especialmente en combinación con otros modos de cultivo. En este trabajo describiré la práctica de la agricultura «swidden» en Chittagong Hill Tracts desde una perspectiva histórica y actual y discutiré algunos de los temas actuales relacionados con la misma, tal como la cuestión de la deforestación y la erosión de los suelos. Además, consideraré la herencia cultural de la agricultura «swidden» en Chittagong Hill Tracts y el probable futuro de este antiguo tipo de agricultura.

2. Introducción

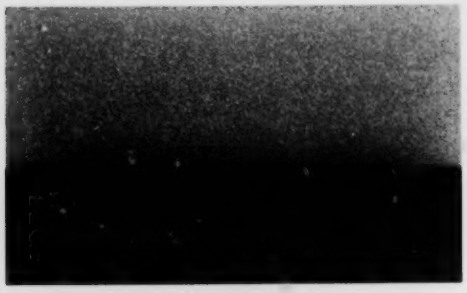
2.1. Los pueblos indígenas de Chittagong Hill Tracts

La montañosa región tropical de Chittagong Hill Tracts linda con Birmania (Myanmar) e India y consiste de los tres distritos de Rangamati Hill Tracts, Bandarban Hill Tracts y Khagrachari Hill Tracts.[2] Es el territorio ancestral de los *bawm, chak, chakma, khyang, khumi, lushai (mizo), pankhua (pankho), tanchangya y tipra (tripura)*, quienes eran tradicionalmente agricultores «swidden», aunque algunos de ellos también acostumbraban dedicarse a las actividades de caza, pesca, recolección y cría de ganado, y todavía lo hacen ocasionalmente. Los chak, khyang, khumi y mru que viven principalmente en las cumbres de las montañas son todavía agricultores «swidden». Los chakma, marma, tanhcangya y tipra que viven en las laderas más suaves y los valles de los ríos se dedican a la agricultura «swidden» y a la agricultura de labranza, que implica irrigación, a diferencia de la agricultura «swidden». Los chakma están también dedicados a las plantaciones de árboles orientadas hacia el mercado y la horticultura, además de la agricultura «swidden» y con arado. Los bawm, lushai y pankhua, tradicionalmente habitantes de la montaña, están dedicados a la agricultura «swidden» y a los cultivos de frutas orientados hacia el mercado, pero no a la agricultura de labranza. Con la extensión de la educación normal y la gradual integración de la economía de Chittagong Hill Tracts con la economía de mercado de las llanuras cercanas, un proceso que todavía continúa hoy, más y más indígenas trabajan en el servicio público y privado, pero todavía una cantidad muy pequeña de ellos están dedicados al comercio y a los negocios, lo cual también está restringido en gran medida a los chakma, marma y tipra, quienes juntos constituyen más de cuatro quintos de la población indígena de la región.[3]

La agricultura «swidden» es también practicada en América Central y del Sur, Africa y China, en casi todos los países del Sureste de Asia excepto Brunei y Singapur, y en Sri Lanka y la India. La palabra chakma para «swidden» es *jum*. En el noreste de la India y en Bangladesh es generalmente conocida como la agricultura «jum». Debido a esta herencia común de la agricultura «jum» o «swidden», los pueblos indígenas de Chittagong Hill Tracts son también llamados colectivamente *jumma*.[4] Pero como los pueblos indígenas de Chittagong Hill Tracts viven en una tierra montañosa, en contraste con el resto de Bangladesh que en su mayor parte consiste de planicies deltaicas, son también referidos como *pahari* («gente de la montaña» o «montañeses»).

2.2 El método de cultivo jum o swidden

En Chittagong Hill Tracts, el método más común de agricultura «swidden» o «jum» implica la limpieza de tierras boscosas o de bambú, generalmente bosques de crecimiento secundario, alrededor del mes de febrero, pudiendo continuar hasta abril[6] pero generalmente está finalizada en marzo. El método de elegir un campo «swidden» puede variar de pueblo a pueblo. Por ejemplo, en el caso de los chakma, la elección del campo depende usualmente de la iniciativa individual. En el caso de los pankhua, la manera usual de elegir un sitio implica una decisión colectiva de los agricultores «swidden» de la aldea, quienes a veces sacan a suerte la decisión sobre la elección de las parcelas, obteniendo los más afortunados las mejores.[7] El tamaño medio de una parcela es de alrededor de una hectárea. Las parcelas soleadas, orientadas al este, son preferidas porque son buenas para el arroz así como también las tierras planas y los fondos de los valles debido a la riqueza de los suelos. Los lugares con árboles muy grandes son evitados porque implican generalmente un trabajo inusual-



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mente pesado para derribar los árboles. Los lugares con demasiado poca vegetación, p. ej., tierras que solamente, o en gran medida, tienen pastos como *sungrass (Imperata arundinacea)* y *khagra (Saceftram spontaneum)* o hierbas malas, también serán evitadas ya que es probable que contengan poco humus, y por lo tanto, suelos de mala calidad. Los bosques de bambú de ciertas especies pueden ser opciones ideales. En la mayoría de los casos, las laderas suaves son preferidas a las más empinadas. Una vez que el campo es elegido, toda la vegetación, excepto los árboles más grandes, será cortada. En el caso de los últimos, sólo las ramas más bajas son cortadas.[8]

La limpieza de los campos «jum» es una de las más arduas tareas y sólo es realizada por los hombres. Después de alrededor de un mes de que el campo ha sido limpiado, cuando se considera que la vegetación se ha secado al sol lo suficiente,[9] el campo «jum» es quemado. Esto se hace generalmente en abril. Ocasionalmente puede ser necesaria una segunda quema. Las cenizas actúan como fertilizante,[10] y normalmente no se usan otros fertilizantes. Al comienzo de las primeras lluvias, en abril o mayo, se hacen pequeños hoyos en la tierra con un cuchillo de diseño especial, en donde se ponen una variedad de semillas, desde arroz, maíz, calabaza, sésamo, boniato y otras verduras, hasta otro tipo de cultivos como el algodón. Cuando las semillas germinan, llega gradualmente el tiempo de cuidar las cosechas, desbrozarlas, y mantener a los animales salvajes y pájaros fuera del campo. Una vez más los métodos varían de pueblo a pueblo. Los chakma usan espantapájaros, catapultas e incluso armas de fuego, y usualmente ponen un guardián para ahuyentar a los pájaros y otros animales indeseados de su parcela «jum». Por otro lado, los pankhua, junto con los lushau y los bawm cercan generalmente sus campos «swidden». Normalmente, después de que el campo «jum» es limpiado, las mujeres se unen a los hombres en el trabajo y ambos sexos comparten el peso del trabajo a partir de ese entonces hasta después de la cosecha.

El tiempo de cosecha varía de cultivo a cultivo. Una de las primeras cosechas es el maíz. El arroz es usualmente cosechado alrededor de agosto, o más usualmente en la actualidad en octubre o noviembre porque las lluvias llegan más tarde ahora. El algodón, que es generalmente la última cosecha, es cosechado en octubre o noviembre, cuando está por llegar el invierno, y los agricultores «swidden» gozarán de tiempo libre para el descanso y la recreación, hasta que llegue el momento de comenzar a limpiar un nuevo campo «swidden» otra vez.[11] Casi todos los pueblos indígenas de Chittagong Hill Tracts observan alguna forma de ritual o ceremonia antes de comenzar a limpiar un campo para el cultivo «swidden» e incluso antes de la cosecha. El método tradicional chakma era sacrificar un ave de corral.[12]

La cantidad y calidad de las cosechas son generalmente mejores en las tierras vírgenes o las tierras mantenidas en barbecho durante un largo período. Antes de la construcción del embalse de Kaptai en 1960 para producir electricidad, el ciclo de cosechas y barbecho solía ser hasta de 20 a 25 años,[13] y el promedio era entre 7 y 10 años.[14] Esto ha disminuido a entre 3 y 5 años en los 60 y 70,[15] y sigue siendo aproximadamente lo mismo ahora.[16] Debido a la carencia de tierras «swidden» y el aumento de la población local, lo cual a su vez ha conducido a un período de barbecho mucho más corto, el rendimiento de las tierras «swidden» ha sido cada vez más pobre en el transcurso de los años. Dada la

reciente tendencia de cosechas decrecientes, no es difícil ver que una reducción aun mayor del ciclo de cultivos haría que la agricultura «swidden» no compensara el esfuerzo laboral necesario para producir incluso una cosecha muy modesta. Un funcionario británico del distrito llamado Lewin había estimado en 1869 que la cosecha promedio de arroz en un campo «jum» era de unos 750 kgs. por acre.[17] Una estimación muy similar fue realizada por uno de los sucesores de Lewin llamado Hutchinson en 1906.[18] Sin embargo, en 1963 Khisa había estimado que la cosecha promedio de arroz por acre había descendido a unos 225 kgs., ¡casi un tercio de la antes mencionada cosecha![19] Una situación muy similar prevalece en el caso de todos los otros cultivos. No necesita mencionarse que si bien los agricultores «jum» eran considerados pudientes en el siglo pasado,[20] en los años 60, los agricultores que vivían solamente de la agricultura «swidden» estaban ciertamente bastante empobrecidos en comparación con sus antepasados. El rendimiento de las granjas «swidden» hoy es estimado en casi el mismo que en los años 60, y en algunos casos, algo más pobre.[21]

3. De la agricultura «swidden» a la agricultura intensiva orientada al mercado

3.1 Las tierras «swidden» y forestales son convertidas en reservas y plantaciones

Poco después de la colonización de Bengala en la década de 1760, la Compañía Británica de la India Oriental comenzó una campaña militar para expandir su esfera de influencia hacia el este, una actitud que fue fuertemente resistida por los pueblos indígenas de la región.[22] Finalmente, por supuesto, los pueblos indígenas no pudieron contra el poderoso imperio británico. En 1860, Chittagong Hill Tracts fue declarado un distrito dentro de Bengala. En la década de 1870, apenas una década después de la anexión formal de la región, vastas áreas de tierras «swidden» previamente cultivadas y bosques vírgenes dentro de Chittagong Hill Tracts fueron apropiados por el gobierno colonial y declarados como «reservas», y los pueblos indígenas ya no podían ejercer ningún derecho a vivir en las mismas, o cultivarlas, o usar sus recursos, tal como solían hacer hasta el momento, bajo amenaza de encarcelamiento. La mayor parte de estas tierras fueron mantenidas como bosques naturales. Las tierras restantes fueron limpiadas de su vegetación y las tierras limpias fueron convertidas en monocultivos de árboles de teca, importando árboles de la cercana Birmania, país en el cual la planta crecía naturalmente. Entonces, de un día para otro, las tierras comunes de los pueblos indígenas de Chittagong Hill Tracts se convirtieron en una categoría de tierra sobre la cual sólo el gobierno británico disponía de derechos.[23]

Desgraciadamente esta instancia de privación injusta de los pueblos indígenas de sus tierras ancestrales no ha sido enmendada hasta la fecha. En fecha tan reciente como en noviembre de 1996, el gobierno de Bangladesh seguía con sus intentos de apropiarse de más tierras indígenas -incluyendo tierras registradas privadamente- para convertirlas en reservas forestales.[24] Puede mencionarse aquí que la continuada política de negar cualquier tipo de beneficios provenientes de los ingresos de estas tierras a los indígenas de la región, es contrario a las previsiones del Convenio sobre la Diversidad Biológica, el cual ha sido ratificado por el gobierno de Bangladesh.[25] De la misma forma, la continua negativa del gobierno de Bangladesh a otorgar un pleno reconocimiento formal a los derechos colectivos a la tierra de los pueblos indígenas de Chittagong Hill Tracts constituye también una violación del Convenio de la Organización Internacional del Trabajo (OIT) sobre Poblaciones Indígenas y Tribales de 1957 (Convenio No. 107), el cual ha ratificado.

3.2 Los agricultores «swidden» se vuelcan a la agricultura de labranza

Aunque el primer caso registrado de agricultura de labranza en Chittagong Hill Tracts fue en 1798,[26] el método de arado no comenzó realmente en forma importante hasta dos décadas más tarde bajo el fuerte aliento del gobierno británico. Los objetivos primarios eran dobles. Por un lado, el gobierno colonial buscaba aumentar sus ganancias a partir de la agricultura de labranza, y por otro lado, buscaba «sedentarizar» a las dispersas poblaciones indígenas. Como la agricultura «swidden» implicaba un ciclo rotativo de cosecha y barbecho, los agricultores «swidden» eran sumamente móviles, si no exactamente «migratorios», y esto no era muy propicio para una fácil administración desde el punto de vista de los administradores británicos. La transición de la agricultura «swidden» a la agricultura irrigada de labranza tuvo lugar finalmente, al menos en el caso de los pueblos habitantes del valle, pero el proceso fue más lento de lo que había anticipado el gobierno británico a causa de varios factores. Primero, la transición tendía a alterar los sistemas orientados hacia el clan.[27] Segundo, el rendimiento de las cosechas anuales de los campos arados con poco o ningún fertilizante, no era mucho mayor, en los casos en que *era* mayor, que el de los campos «swidden» fertilizados con ceniza o el de tierras casi vírgenes.[28] Tercero, el trabajo duro y pesado y la monotonía del cultivo húmedo del arroz en campos infestados de mosquitos, en comparación con la labor versátil y variada de la agricultura «swidden» de montaña, en entornos más sanos y más higiénicos era bastante fastidioso, por decir poco. Cuarto, la agricultura de labranza en las aldeas era, en esos días, un blanco más codiciado para las incursiones de los merodeadores *lushai (mizo)* de Mizoram que las más dispersas y escasamente pobladas aldeas dependientes de la agricultura «swidden».[29] Finalmente, el ganado necesitado para los arados era extremadamente vulnerable a los tigres y leopardos, entre otras cosas.[30]

A pesar de las condiciones antedichas, miles de agricultores indígenas, especialmente de los pueblos habitantes de los valles, tales como los *chakma*, *marma*, *tanchangya* y *tipra* se volcaron finalmente a la agricultura de labranza, y para la década de 1920 habían abandonado totalmente la agricultura «swidden». No obstante, a pesar de su voluntad, grandes sectores de los pueblos antes mencionados no pudieron transformarse en labradores por la simple razón de que el terreno de gran parte de Chittagong Hill Tracts era demasiado escabroso y ondulado para ser usado para la agricultura de labranza. Este fenómeno no escapó a la atención de un astuto funcionario civil británico llamado Ascoil, quien estimó correctamente en 1918 que la agricultura de las laderas continuaría jugando un papel vital en la economía de Chittagong Hill Tracts durante muchos años por venir.[31] La escasez de tierras en Chittagong Hill Tracts con diversas condiciones de suelo fue demostrada otra vez en la década de 1960, esta vez mediante abundantes gráficas, esquemas y tablas, como resultado de una investigación de dos años hecha por la conocida firma canadiense de científicos especialistas en suelos, con base en Vancouver, llamada «Forestal Forestry and Engineering Internacional Limited», la cual realizó amplios estudios sobre la variedad de suelos del terreno de Chittagong Hill Tracts.[32] Por lo tanto, es fácil ver que mientras que un gran sector de la población indígena que vivía en los valles y en las laderas menos empinadas no tenía una real

oportunidad de transformarse en labradores, la cuestión la transformación en labradores de los pueblos que tradicionalmente habitaban las montañas como los *bawm, chak, khumi, khyang, mru* y *pankhua*, no se puede ni siquiera plantear. Sin embargo, el mito de que los pueblos que viven en Chittagong Hill Tracts son contrarios a la agricultura de labranza sigue vivo en las planicies de Bangladesh.

3.3 Los agricultores «swidden» se transforman en horticultores

Hemos visto antes que incluso tan temprano como en 1918, la población de Chittagong Hill Tracts había excedido por lejos la cantidad que podía ser confortablemente absorbida por la agricultura de labranza, y consecuentemente, el grueso de la población de Chittagong Hill Tracts tenía que depender de la única forma de agricultura que sabía que era apropiada en tierras de laderas, es decir, la agricultura «swidden» o «jum». Si consideramos la situación cuatro décadas más tarde, en 1960, la imagen se torna más tenebrosa, porque en este año desgraciado fue finalizada la construcción de una represa en el río Karnaphuli, en Chittagong Hill Tracts, y se creó un gran embalse de unos 1.400 kilómetros cuadrados. El embalse desplazó a casi 100.000 personas -mayormente chakma- incluyendo unas 10.000 familias de labradores y 8.000 familias de agricultores «swidden», quienes constituían casi un tercio de la entonces población de Chittagong Hill Tracts.[34] Unas 22.000 hectáreas de tierras de labranza fueron inundadas en forma permanente. Los labradores al menos recibieron alguna compensación monetaria y *algunas* tierras alternativas, pero los agricultores «swidden» no recibieron ninguna compensación ya que sus derechos a las tierras comunes «swidden» no eran reconocidos oficialmente como derechos dignos de compensación monetaria o de otro tipo.[35]

Apenas cuatro años más tarde, en 1964, precisamente cuando los científicos canadienses especialistas en suelos de la compañía Forestal estaban comenzando su investigación en Chittagong Hill Tracts, se produjo un éxodo de decenas de miles de chakma evacuados de la represa, empobrecidos y sin tierra. Estos refugiados fueron primero acogidos en el Estado Mizoram de la India, pero fueron finalmente llevados a Arunachal Pradesh, cerca de la frontera con la India y la China, por el gobierno de la India. Esta gente y sus descendientes, que actualmente suman 80.000 individuos, todavía están en la provincia nororiental india como refugiados apátridas.[36] Es en este telón de fondo que los miles de antiguos agricultores «swidden» y labradores que permanecieron dentro del país fueron forzados por las circunstancias a probar la horticultura bajo el patrocinio del gobierno provincial.

Puede recordarse que una de la más importantes conclusiones del Informe Forestal, tal como fue mencionado antes, era que el grueso de las tierras de Chittagong Hill Tracts eran apropiadas sólo para la forestación y la horticultura. Como la riqueza forestal de Chittagong Hill Tracts era todavía considerada elevada, el gobierno de Paquistán Oriental concentró sus esfuerzos en la última mitad de la década de 1960 en el apoyo de las iniciativas locales para el cultivo de frutas por agricultores indígenas occidentales desplazados por la represa -especialmente chakma- para obtener arrendamiento de tierras para la horticultura y préstamos beneficiosos del Banco de Desarrollo Agrícola de propiedad del gobierno.[37] A la primera generación de horticultores chakma no le fue muy mal en lo relativo a la producción -que incluía piña, banana, cítricos, fruto del árbol del pan, etc.- pero problemas relativos a la comercialización causados por la ausencia de facilidades de almacenamiento y preservación, la explotación del frágil e inestable mercado por los carteles y las dificultades de transporte, entre otras cosas, constituyeron obstáculos importantes para que la fruticultura se convirtiera en una fuente de recursos estable para la economía agraria de Chittagong Hill Tracts.[38] No obstante, miles de agricultores «swidden» faltos de tierra no tenían otra alternativa que continuar plantando frutas para venderlas en el mercado además de sus cultivos «swidden». Vale la pena mencionar aquí que aunque según consideraciones macroeconómicas la fruticultura orientada al mercado sólo prosperó en una escala importante en Chittagong Hill Tracts en las décadas de 1960 y 70, especialmente en el interior de las tierras chakma, los bawm, lushai y pankhua habían recurrido en realidad a la plantación de naranjas como cultivo comercial ya en la década de 1950[39], pero la escala de la producción era pequeña, y todavía lo es, a causa de las dificultades naturales y las dificultades de comercialización.

3.4 Los agricultores «swidden» se vuelcan a la plantación de árboles

A partir de la década de 1870, el departamento gubernamental a cargo de los bosques de Chittagong Hill Tracts, el Departamento Forestal («BFB»), había comenzado a plantar teca en los bosques antiguos y en las tierras «swidden». El método más común para hacer ésto era emplear agricultores swidden y permitirles una cosecha de cultivos «swidden» en las tierras designadas para plantaciones con la expresa condición de que debían plantar retoños de teca junto con sus cultivos usuales. Esto fue conocido como el método *taungya*, proveniente de la palabra birmana/arakanesa «taung» que significa montaña, refiriéndose a la agricultura «jum» o «swidden», la forma más popular de agricultura en las laderas de las montañas en esos lugares.[40] En forma no sorprendente, muchos de los indígenas empleados por el BFD en estas plantaciones establecieron más tarde sus propias plantaciones de teca, y especies indígenas mediante el método *taungya* cuando no podían recurrir a otros métodos viables de subsistencia, especialmente después de que comenzaron a apremiar problemas relacionados a la comercialización de frutas duraderas como la piña. Esta práctica se desarrolló en gran forma especialmente en el territorio chakma alrededor del área de embalse de Karnaphuli - donde el transporte acuático de los troncos era barato y relativamente fácil. En realidad, muchos de las fruticultores de la década de 1960 y70 se pasaron a la plantación de árboles en la década de 1980 y 90. La plantación de árboles es probablemente ahora el tipo de actividad económica rural de más rápido crecimiento entre los indígenas de Chittagong Hill Tracts.[41]

3.5 Por qué la agricultura «jum» («swidden») continúa en Chittagong Hill Tracts

Hemos visto antes que debido al drástico aumento de la población de Chittagong Hill Tracts y el área de tierras accesibles para la agricultura «swidden» en constante reducción, ésta se tornó menos y menos productiva. La interrogante que puede surgir es, por qué entonces la agricultura «swidden» todavía continúa en Chittagong Hill Tracts, o a ese respecto, por qué su práctica continúa todavía, dado su enorme deterioro en términos de productividad.

El factor más importante que fundamenta la continuación de la agricultura «swidden» en Chittagong Hill Tracts es más bien económico que cultural. Desde el punto de vista de la agricultura, las tierras que no están lo suficientemente niveladas para la agricultura de labranza sólo pueden ser utilizadas para la fruticultura o la

plantación de árboles, pero incluso en ese caso, sólo si están localizadas a una distancia razonable de los caminos, autopistas o vías navegables, sin lo cual los frutos y árboles no pueden ser comercializados. Es bastante natural que una gran parte de Chittagong Hill Tracts no sea accesible por caminos transitables o vías navegables. Consecuentemente, estas tierras sólo pueden ser utilizadas para la agricultura «swidden». Además, incluso en las áreas relativamente accesibles, los problemas relacionados con la falta de créditos o de seguridad de la tenencia de la tierra, las dificultades de almacenamiento y comercialización, entre otras razones, también han limitado seriamente la opción de la agricultura orientada al mercado en Chittagong Hill Tracts.[42]

Así se ve que en muchas áreas de Chittagong Hill Tracts, los agricultores indígenas han sido forzados a combinar la agricultura «swidden» en las laderas más abruptas con la agricultura de labranza en las laderas más suaves de la cercanía. En las áreas que están situadas relativamente cerca de caminos y vías navegables, la banana es la opción favorita. En las áreas más remotas, los cultivos como el de la banana son demasiado pesados como para ser transportados a pie al mercado más cercano. En tales lugares, la cúrcuma y el jengibre son favorecidos ya que el jengibre seco y la cúrcuma son livianos de peso y alcanzan un precio relativamente bueno por cantidades incluso moderadamente livianas.[43]

4.Tierras «swidden», bosques y erosión del suelo

4.1 Agricultura «swidden» y erosión del suelo

Históricamente, vemos que los agricultores indígenas de Chittagong Hill Tracts han tenido que adaptar sus métodos agrícolas, y consecuentemente sus estilos de vida, a un paso increíblemente rápido debido a las presiones demográficas y económicas. En el marco de una generación, muchos agricultores «swidden», predominantemente orientados hacia la subsistencia, tuvieron que convertirse en fruticultores y plantadores de árboles orientados hacia el mercado. Tradicionalmente, los agricultores «swidden» estaban acostumbrados a plantar semillas haciendo un pequeño agujero en el suelo, a veces llamado «dibbling», y no mediante el arado o la azada. En realidad, hasta hace sólo poco generaciones muchos agricultores indígenas eran sumamente reacios a adoptar la labranza porque consideraban un pecado revolver a la madre tierra con un arado.[44] Por lo tanto, aquí hay un ejemplo muy claro de cómo las necesidades económicas superan las creencias espirituales y los valores tradicionales. Es bastante irónico que desde el punto de vista de la erosión del suelo, tal creencia está lejos de ser irracional en lo que concierne al cultivo de las laderas de las montañas. Sin embargo, por otro lado, las autoridades gubernamentales de Chittagong Hill Tracts han identificado a la agricultura «swidden» con la erosión del suelo. En forma similar, el debate sobre la relación entre la agricultura «swidden» y la erosión del suelo está también vivo en la India. Escribiendo sobre la relación entre la agricultura «swidden» y la erosión del suelo, un antropólogo hindú, llamado P. K. Bhowmik, quien ha realizado amplias investigaciones sobre la agricultura «swidden» en el noreste de la India, escribió: «Aquellos que se suscriben a la opinión de que la agricultura rotativa tiene como resultado la erosión del suelo encontrarán inquietante que la agricultura rotativa sea una respuesta de los pueblos tribales de las áreas montañosas al problema de la erosión de la capa superior fértil de los suelos de las laderas abruptas. Como M. S. Shivaraman, Asesor del Programa de Administración de la Comisión de Planeamiento observó en 1957: es una equivocación presumir que la agricultura rotativa en sí misma es un uso de la tierra no científico. En realidad, es un enfoque práctico de ciertas dificultades inherentes a la preparación de un semillero apropiado en las laderas abruptas, donde cualquier alteración de la superficie mediante el uso de la azada o del arado resultará en el lavado de la superficie fértil del suelo. Los pueblos tribales, por lo tanto, se preocupan de no arar o alterar el suelo antes de sembrar».[45]

En otro estudio sobre la agricultura «swidden», de Tej Partap y Herold R. Watson, se expresan puntos de vista muy similares. Cito: «La agricultura 'swidden' representó una adaptación humana sumamente exitosa a los rigores y dificultades de los húmedos trópicos. En un entorno de frágiles bosques y suelos, los agricultores «swidden» integrados han desarrollado un agro-ecosistema que es distinto y es capaz de responder a las incertidumbres ambientales (FAO 1991). El agricultor «swidden» usó su conocimiento del medio ambiente natural no sólo para hacer 'swiddens' sino también para recolectar, cazar y pescar para obtener alimentos, fibras y medicinas para el hogar, e incluso para el mercado externo, en forma exitosa. El conocimiento del medio ambiente tropical y las necesidades del repertorio de cultivos tropicales son usados para desarrollar y manejar micro-zonas de sus campos. Las necesidades específicas de los cultivos son asimiladas a suelos específicos - una diversidad de cultivos entretejida con una diversidad de micro-entornos».[46]

Ahora bien, esto no quiere decir que la agricultura «swidden» *nunca* es responsable de la erosión del suelo. El punto sobre el que quiero poner énfasis aquí es que la agricultura «swidden» o «jum» no es en sí misma un método de cultivo que lleve a la erosión del suelo, aunque la agricultura «jum» irresponsable -por ejemplo, su implementación en tierras empinadas que han sido dejadas en barbecho por menos de 3 a 5 años, o hacerlo en laderas muy empinadas- puede conducir a la erosión del suelo, y lo hace, tal como ha sido experimentado en la India.[47] Hay muchas instancias de exceso de cultivos en Chittagong Hill Tracts, lo cual ha reducido muchas buenas tierras «swidden» a tierras de pasturas estériles y virtualmente inservibles.[48] En forma similar, existen otras prácticas indeseables que han sido conectadas con la agricultura «swidden» en Chittagong Hill Tracts, tal como prender fuego a una gran área de tierra que está en realidad cultivada en forma «jum», o prender fuego a tierra que tiene insuficiente vegetación, lo cual resulta en la destrucción del humus, ya que el suelo mismo resulta quemado hasta una profundidad indeseable y consecuentemente la fertilidad de la tierra se ve sumamente reducida. Estas prácticas antieconómicas y no sustentables deberían ser controladas y minimizadas, y pueden serlo. Pero la agricultura «swidden» en sí misma no debería ser detenida a causa de las prácticas antieconómicas mencionadas antes, ya que, ciertamente, las mismas no forman parte integral de la práctica tradicional misma y son en gran medida el resultado de una conducta perezosa o egoísta de parte de agricultores «swidden» en particular. Innegablemente, existe una fuerte necesidad de desalentar tales prácticas.

4.2 Los agricultores «swidden» y los bosques

En Chittagong Hill Tracts, las estadísticas oficiales han sostenido constantemente que la agricultura «jum» es el principal agente de deforestación.[49] Aunque no puede ser negado que la práctica «jum» irresponsable ha resultado en algún tipo de deforestación,

la agricultura «jum» no es el *único* agente de deforestación en Chittagong Hill Tracts, tampoco es ciertamente el *principal* agente de deforestación. Las medidas llamadas de «seguridad» que resultan en una limpieza casual de los bosques a través de proyectos de «limpieza de la selva», asistidos por gobiernos extranjeros, han resultado hasta el momento mucho más destructivas de los bosques que cualquier otra causa simple.[50] Además, el contrabando de teca y otras maderas valiosas robadas por bandas y carteles madereros con base en la ciudad de Chittagong, que está impulsado nada más que por la ganancia resultante de una casi ilimitada demanda en el mercado, empalidece hasta la insignificancia la extensión de la deforestación causada por los agricultores «swidden» en los bosques reservados, por ejemplo.[51]

Es cierto que el establecimiento de poblados de agricultores «swidden» dentro de las áreas de las reservas de Kassalong y especialmente de Reingkhyong, ha conducido a la deforestación durante las pasadas décadas,[52] pero este traslado masivo de indígenas fue causado mayormente por la mera necesidad económica de los agricultores sin tierra necesitados de encontrar tierras alternativas para cultivar, y en algunos casos, por labradores y otros agricultores sedentarios que fueron desplazados por colonos no-indígenas patrocinados por el gobierno, provenientes de las regiones llanas, especialmente en la década de 1980.[53] Por lo tanto, son las políticas gubernamentales de tierras y población cortoplacistas las que han conducido a tal desplazamiento de gente, y no es ciertamente exacto ni moralmente aceptable culpar a los indígenas sin tierra y desposeídos por este desafortunado desarrollo. Por lo tanto, es importante que cualquier plan de conservación forestal a largo plazo para los bosques de Chittagong Hill Tracts debería tener un adecuado conocimiento del problema de la escasez de tierras y de la crisis económica de Chittagong Hill Tracts.

Por otro lado, no puede ser desestimada la positiva contribución a la forestería en Chittagong Hill Tracts que resulta del método «swidden» o *taungya*, gracias al cual fueron creadas la mayoría de las plantaciones controladas por el gobierno en Chittagong Hill Tracts desde el siglo XIX.[54] Además, debería tenerse presente que la plantación de árboles productores de madera por los agricultores indígenas en tierras de propiedad privada -mediante el método *taungya* o «jum»- es quizás la actividad económica de más rápido crecimiento hoy en Chittagong Hill Tracts. Además, también tendría que reconocerse la larga tradición de los agricultores «swidden» de dejar de lado una porción de sus tierras «swidden» comunes como bosque para el uso de los aldeanos. Hace pocas décadas, casi todas las aldeas tenían un bosque de propiedad común.[55] Desafortunadamente, ésto ya no es más así, pero la extensión de estos bosques comunes es todavía importante y probablemente no sumen mucho menos que el área total de los bosques naturales directamente controlados por BFD. Muchos de estos bosques comunes contienen también la herboristería aldeana a cargo de los shamanes y los curanderos de la aldea. Esta tradición y práctica necesita ser revivida y fortalecida, si es necesario mediante el otorgamiento de títulos de propiedad, porque es mucho más probable que estos bosques sean protegidos -debido a que el interés cultural y económico de los aldeanos está conectado con la supervivencia de los mismos- que los bosques controlados directamente por el gobierno, los cuales parecen tener muchos patrones pero pocos protectores.

El patrimonio «jum» de Chittagong Hill Tracts

La exposición anterior ha demostrado que la agricultura «jum» puede de hecho tener una relación positiva en vez de negativa con la forestería y la conservación del suelo. En realidad, la experiencia en Chittagong Hill Tracts muestra que en tierras en pendiente, es un método de cultivo mucho más beneficioso y sustentable para el suelo que los cultivos mediante el arado o la azada. Por ejemplo, la ceniza de la vegetación quemada en los campos «swidden» funciona como el principal agente fertilizante controlador de pestes, evitando el uso de fertilizantes y pesticidas no-indígenas, potencialmente tóxicos.[56] El otro principal agente de fijación del nitrógeno en las tierras «swidden» de Chittagong Hill Tracts, que también funciona como repelente de pestes, es el cultivo extendido de caléndulas, entre, dentro y alrededor de los semilleros «swidden».[57]

Otro lado muy positivo de la agricultura «jum»es que con este método de cultivo, los males ecológicos «causados por bases genéticas reducidas y el monocultivo»[58] pueden ser evitados. La amplia diversidad de tipos de cosechas en un campo «swidden», y las numerosas especies de cada tipo de cultivo, son algunos de los aspectos más deseables de la agricultura «jum». El repertorio biológicamente diverso de cultivos en los campos «jum» tiene la función, entre otras, de enriquecer el suelo y minimizar la erosión del mismo, lo cual es algo comúnmente visible en cualquier parte en que la agricultura implica un solo tipo de cultivos o pocos cultivos.

Aparte de su contribución a la economía y a la ecología de Chittagong Hill Tracts, y de Bangladesh como un todo, no debería olvidarse que sin la agricultura «jum» no habría habido algodón para alimentar la mundialmente famosa industria de la muselina del siglo XVIII y XIX en Bengala.[59] El patrimonio de la agricultura «jum» o «swidden» en Chittagong Hill Tracts ha jugado un papel importante, y muy ciertamente lo seguirá jugando, en la vida de la sociedad indígena durante muchos años venideros. No obstante, de todos sus legados, quizás el legado de cooperación e igualdad será el que sobreviva más tiempo y el que sea de mayor valor para los pueblos indígenas de Chittagong Hill Tracts en un futuro distante. Un escritor indígena de Chittagong Hill Tracts había sostenido que la práctica común de los agricultores «swidden» con excedente de producción de dar su excedente a los agricultores «swidden» con cosechas más pobres, en cualquier año, había impedido la acumulación de capital en las sociedades indígenas de orientación «swidden».[60] Esto puede ser cierto. La ausencia de muchas personas ricas entre los pueblos indígenas de Chittagong Hill Tracts es también probablemente, al menos en forma parcial, resultado de esta práctica de asistencia comunal a los necesitados y a los pobres. Pero es probable que sea igualmente cierto que en ausencia de esa práctica y tradición de compartir y ayudar a otros, la sociedad indígena de Chittagong Hill Tracts hoy hubiera estado mucho más dividida, desunida, desmoralizada y marginada. A pesar de sus diferencias, los pueblos indígenas de Chittagong Hill Tracts tienen un fuerte sentido colectivo de unidad, identidad y unicidad. Esto es debido en gran parte a la tradición de cooperación y servicios comunitarios que está profundamente arraigada en la cultura de las sociedades de orientación «swidden» de Chittagong Hill Tracts. Sin embargo, es de esperar que tal espíritu persista durante más tiempo que la agricultura «swidden», en caso de que esta última deje de ser practicada en Chittagong Hill Tracts, como ciertamente lo será, dadas las actuales tendencias.

6. Conclusión

La agricultura «swidden» o «jum» es, tal como se afirmó anteriormente, una innovación para las tierras en pendiente de las regiones tropicales que ha sobrevivido allí donde otras formas de cultivo no eran apropiadas a causa de factores naturales o de las fuerzas del mercado. Quizás, se deba también a estos factores que en las regiones relativamente inaccesibles y remotas, cualquier otra cosa que no sea la agricultura «swidden» no es económica ni geológicamente factible. Por lo tanto, es probable que la agricultura «swidden» continúe en estas regiones relativamente remotas de Chittagong Hill Tracts durante muchos años aún. Permítaseme ahora plantear aquí dos importantes interrogantes relativas al futuro de la agricultura «swidden» en Chittagong Hill Tracts. En primer lugar, si la agricultura «jum» o «swidden» continúa siendo practicada en Chittagong Hill Tracts, ¿no deberíamos de tratar de evitar los males ecológicos que pueden acompañar a una aplicación imprudente de este método? Y segundo, si la situación es tal que es seguro que las prácticas cesen totalmente en el futuro distante, tal como es más que probable dadas las actuales tendencias, ¿no deberíamos tratar de preservar y proteger esta práctica inmemorial como un sistema de conocimiento y un patrimonio de valor no sólo para los pueblos indígenas de la región sino para la humanidad entera? Yo respondería ambas interrogantes con un firme sí.

Considerando algunas de las prácticas antieconómicas de los agricultores «swidden» perezosos o egoístas antes mencionados, sugeriría los siguientes tres pasos: (i) mantener un período de barbecho de no menos de 5 años; esto minimizaría también el daño ocasionado a la tierra por los fuegos «jum» en campos con escasa vegetación, dónde el suelo superior muy poco profundo se quema fácil y pierde así su humus y fertilidad; (ii) evitar completamente el cultivo de laderas empinadas o tomar medidas de control de la erosión construyendo pequeñas barreras y terrazas para impedir que el suelo desaparezca, cuando las condiciones del suelo así lo permitan; y (iii) impedir que los fuegos se extiendan más allá de los límites del área a ser cultivada. Estoy seguro de que hay muchos más pasos positivos que pueden ser tomados para evitar los males que se han conectado con la agricultura «swidden», aunque no se ajusten necesariamente a la práctica tradicional de la agricultura «swidden» en Chittagong Hill Tracts. Las antes mencionadas medidas pueden ser tomadas por las autoridades locales, pero a la larga, para que tengan éxito, no existe otra alternativa que la autorregulación por los mismos agricultores «swidden».

Considerando la continuación del método «jum» en sí mismo, ya que es la intervención del mercado la que está conduciendo a su deterioro, y quizás a su abandono total, son entonces las intervenciones relacionadas con el mercado las que pueden ser las más efectivas para impedir su deterioro y abandono. Un alza en la demanda del mercado de los productos «jum», p. ej., arroz, algodón, verduras, etc. puede ser buena para cualquier cultivo particular en sí mismo a corto plazo, pero podría reducir el repertorio de cultivos y finalmente conducir al monocultivo, el cual socavará la misma base de su subsistencia. Sólo puedo pensar en subsidios para continuar con el sistema en sí mismo y no para cualquier cultivo o cultivos. Quizás otros vengan con mejores ideas. No obstante, será necesario algún tipo de intervención para impedir la desaparición de esta práctica ancestral. De otra manera, se perderá para siempre para la humanidad una gran fuente de conocimiento relacionado no sólo a una forma de cultivo, sino relacionado a la conservación de los bosques y de la fauna y de la medicina indígena. La práctica de mantener y conservar los bosques comunes de los indígenas y de la fauna de éstos y otros bosques de Chittagong Hill Tracts, incluyendo los métodos sustentables de crianza de animales parcialmente domésticos y parcialmente salvajes, interdictos a las prácticas de caza, etc., está estrechamente relacionada con la práctica de la agricultura «jum». Si el conocimiento tradicional, las prácticas e innovaciones de los pueblos indígenas de Chittagong Hill Tracts relacionadas con los bosques han de protegerse, estos bosques deben ser también protegidos. La mejor manera de hacerlo es reconocer plenamente el título indígena a los bosques y ayudarlos en sus iniciativas de desarrollo. El énfasis debería ser puesto en la ayuda a las propias iniciativas de los indígenas, en vez de tratar de involucrarlos en iniciativas centralmente planificadas, en cuyas formulaciones los pueblos indígenas no juegan ningún papel importante.

Notas

1) Ver por ejemplo, Muhammad Ishaq (ed), *Bangladesh District Gazetteers: Chittagong Hill Tracts*, Ministerio de Asuntos de Gabinete, División de Establecimiento, Dhaka (1975), p. 104.

2) Antes de su anexión al Imperio Británico de la India en 1860, Chittagong Hill Tracts no formaba parte de ningún imperio o estado nacional y estaba compuesto de pequeñas jefaturas y otras formas políticas indígenas no formalizadas. En 1947, fue integrado a Paquistán Oriental y en 1971, se convirtió en uno de los distritos de Bangladesh. Chittagong Hill Tracts fue dividido en tres en la década de 1980. Tiene un área de unos 13.189 kilómetros cuadrados.

3) De acuerdo al censo oficial de 1991, la población de Chittagong Hill Tracts era de 974. 445 personas, de las cuales 501.144, o sea el 51,4% eran indígenas. Es improbable que este censo tome en cuenta los casi 50.000 refugiados indígenas de Chittagong Hill Tracts que se han refugiado en el estado de Tripura, India, desde 1986. Incluso si no fuera así, los indígenas de Chittagong Hill Tracts, como en todas partes en Bangladesh, creen que su población es mucho mayor de lo que se estima oficialmente.

4) Por una discusión del concepto de pueblo jumma como una entidad social y como una emergente entidad política, ver William van Schendel, *The Invention of the Jummas: Ethnicity and State Formation in Southeastern Bangladesh* en Sekhar Bandyopadhyay et al (eds.), 'Bengal: Communities, Development and States', University Press Limited, Dhaka (1995), pp. 135-173.

5) Por una visión que sostiene que el concepto de «pueblo de la montaña» es una construcción colonial que impide la integración nacional ver, Prashanta Tripura, *Colonialist Barriers to National Integration: Modern Bangladesh and the Problem of 'Hill People'* en Imtiaz Ahmed y Megna Guhathakurata (eds.), 'SAARC: Beyond State-Centric Cooperation', Centro de Estudios Sociales, Dhaka (1992), pp. 92-104.

6) Amarendra Lal Khisa, *Shifting Cultivation in the Chittagong Hill Tracts* (Tesis de Maestría no publicada), Departmento de Geografía, Universidad de Dhaka (1963), p. 50.

7) Esta sección está basada en discusiones con agricultores «swidden» pankhua. También han sido consultadas correspondencias sobre formas de mejorar la agricultura «swidden» accesibles en los Archivos de Chakma Raja en Rangamati.

8) Khisa, op. cit., p. 50.

9) Ibíd., p. 51.

10) Ibíd.

11) Por una discusión más detallada sobre el ciclo de cosecha ver, Khisa, op. cit., pp. 56-60 y Ishaq, op. cit., p. 82.
12) Khisa, op. cit., p. 60.
13) Forestal Forestry and Engineering International Limited en *Chittagong Hill Tracts Soil and Land Use Survey Report (1964-66)* (9 volúmenes), como se cita en Chittagong Hill Tracts Gazetteer, op. cit., p. 88. Khisa (op. cit., en p. 106) por otro lado, estima el período de barbecho de hace alrededor de un siglo en unos 12 a 15 años.
14) Chittagong Hill Tracts Gazetteer, op. cit., p. 88.
15) Khisa, op. cit., p. 106. Chittagong Hill Tracts Gazetteer, op. cit., p. 88.
16) Conversaciones del autor con agricultores indígenas «swidden» en Chittagong Hill Tracts.
17) Chittagong Hill Tracts Gazetteer, op. cit., p. 118.
18) Ibíd., p. 119.
19) Khisa, op. cit., p. 76.
20) Chittagong Hill Tracts Gazetteer, op. cit., en 118, citando al Capitán T. H. Lewin.
21) Conversaciones del autor con agricultores indígenas «swidden» en Chittagong Hill Tracts.
22) Por la militarización británica de Chittagong Hill Tracts y la resistencia de los pueblos indígenas, ver Dr. A. M. Serajuddin, *The Origin of the Rajas of the Chittagong Hill Tracts and their relations with the Rajas of the Chittagong Hill Tracts and their relations with the Mughals and the East India Company* en 'Journal of the Pakistan Historical Society', Vol. XIX, parte 1, Karachi (enero, 1991), pp. 51-60; Ratan Lal Chakraborty, *Chakma Resistance to Early British Rule* en 'Bangladesh Historical Studies; Journal of Bangladesh Ithihaas Samiti', Vol. II (1977), pp. 133-156. Willen Van Schendel (ed.), Francis Buchanan en Southeast Bengal (1798), University Press Limited, Dhaka (1992), p. 101 (además, van Schendel (1992)).
23) Por más detalles sobre la forma de apropiación de las tierras de los pueblos indígenas de Chittagong Hill Tracts por el gobierno colonial británico, ver: (i) Raja Devasish Roy, *Forests, Forestry and Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh* además Roy (Forests) (1996), trabajo presentado en un seminario sobre los Derechos de los Pueblos Indígenas y Tribales organizado por el Grupo para los Derechos Minoritarios, Londres y la Iniciativa de la Mancomunidad por los Derechos Humanos, Nueva Delhi, en Nueva Delhi, India, del 23 al 25 de febrero, 1996, p. 2; (ii) Raja Devasish Roy, *Colonization, Marginalization and Disempowerment of Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh: Will there be a reversal of the trend?;* trabajo presentado en una conferencia internacional sobre «Bangladesh (1971-1996): Las luchas de los Pueblos», organizado por CERAS Alternatives en Dawson College, Montreal, Canadá del 18-20 de octubre, 1996, pp. 3-5.
24) Ver por ejemplo, Kabita Chakma y Glen Hill, *Thwarting the Indigenous Custodies of Biodiversity* en Philip Gain (ed.), 'Bangladesh: Land, Forest and Forest People', Dhaka (1995), p. 128. Ver también los periódicos bengalís, 'Bhorer Kagaj', Dhaka del 18 de enero, 1996 y 3 de diciembre, 1996 y el 'Daily Purkakone', Chittagong, del 28 de noviembre, 1996.
25) Por una discusión general sobre la pérdida de la biodiversidad en Chittagong Hill Tracts, ver Raja Devasish Roy, *Deforestation, Biodiversity Loss and Erosion of Land Rights of Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh* (no publicado, Dhaka 1993), además Roy (Biodiversity) (1993).
26) Van Schendel (1992), op. cit., p. 84.
27) Chittagong Hill Tracts Gazetteer, op. cit., p. 84.
28) El autor está en deuda por esta información a Arunendu Tripura de Rangamati, quien tuvo amplias discusiones sobre el tema con agricultores tipra en el norte de Chittagong Hill Tracts.
29) Chittagong Hill Tracts Gazetteer, op. cit., p. 83. Ver también, Tripura, op. cit., pp. 99, 100.
30) Chittagong Hill Tracts Gazetteer, op. cit., p. 83.
31) F. D. Ascoil (funcionario en Servicio Especial), *Report on the Administration of the Chittagong Hill Tracts* (1918), Chakma Raja's Archives, Rangamati, p. 14.
32) Forestal Forestry and Engineering International Limited, *Chittagong Hill Tracts: Soil and Land Use Survey, 1964-66*, Vancouver, Canadá (1966) (9 volúmenes), además citado como 'Forestal'.
33) Khisa, op. cit., p. 106.
34) Chittagong Hill Tracts Gazetteer, op. cit., p. 126.
35) Sobre la extensión de la pérdida y los daños infligidos por la Represa de Kaptai, ver: (i) David E. Sopher, *Population Dislocation in the Chittagong Hills* en 'The Geographical Review (New York)', Vol. LIII, No. 3, 1963; (ii) Chittagong Hill Tracts Gazetteer, op. cit., pp. 42, 43; (iii) Hari Kisohre Chakma et al, Bar Parang, Dhaka, 1996.
36) Ver por ejemplo los periódicos hindúes *The Statesman, The Telegraph, The Hindustan Times* and *The Times of India* del 11 de enero, 1996.
37) Por detalles del programa EPADC/BADC, ver Raja Devasish Roy, *Land Rights, Land Use and Indigenous Peoples in the Chittagong Hill Tracts* en Philip Gain (ed.), 'Bangladesh: Land, Forest and Forest People', Society for Environment and Human Development, Dhaka (1995) además, Roy '(Land Rights, Land Use) (1995)', pp. 84, 85.
38) Ver, Roy (Land Rights, Land Use) (1995), op. cit., pp. 84-89 por más detalles sobre sus problemas conectados con la horticultura orientada hacia el mercado en Chittagong Hill Tracts. Ver también, Lorenz Loffler, Economy and Human Rights: Report on a short visit to Bangladesh and Rangamati (Chittagong Hill Tracts, Bangladesh), Zurich (1991), pp. 6, 7.
39) El autor lamenta no haber podido, a pesar de sus esfuerzos, identificar la fuente de esta información.
40) Sobre el sistema *taungya* de crear plantaciones, ver Chittagong Hill Tracts Gazetteer, op. cit., pp. 106, 107 y Webb y Reports, op. cit., p. 15.
41) Por una discusión más profunda sobre las tres prácticas de agricultura en Chittagong Hill Tracts ver Roy (Land Rights, Land Use) (1995), op. cit., pp. 89-93.
42) Sobre los problemas enfrentados por los fruticultores en Chittagong Hill Tracts, ver Roy (Land Rights, Land Use) (1995), op. cit., pp. 84-89.
43) Esta sección está basada en visitas personales del autor al lugar y discusiones con agricultores indígenas de Chittagong Hill Tracts.
44) Khisa, op. cit., p. 69.
45) P. K. Bhowmick, *Shifting Cultivation: A Plea for New Strategies* en Majumdar, op. cit., p. 83.
46) Tej Partap y Herold R. Watson, *ICIMOD Occasional Paper No. 23*, Centro Internacional para el Desarrollo Integrado de la Montaña, Katmandu, Nepal (1994), p. 11.
47) R. N. Rai, *Management of Land and Water Resources of Jhum Affected of North Eastern Region*, en Mahajan, op. cit., pp. 127, 128; R. N. Prasad, A. Singh & Arun Varma, *Shifting Cultivation and Land Degradation* in Mahajan, op. cit., pp. 145-147.
48) Sopher, op. cit., p. 339; Khisa op. cit., pp. 12, 13.
49) Ver, por ejemplo, Chittagong Hill Tracts Gazetteer, op. cit., p. 104.
50) Loffler, op. cit., p. 2.
51) Roy (Forests) (1996), p. 7.
52) Ver, por ejemplo, Webb and Reports, op. cit., p. 19.

53) Sobre el problema de! despojo de las tierras de los pueblos indígenas por colonos no-indígenas patrocinados por el gobierno en la década de 1980, ver Raja Devasish Roy, *The Problem of Lands of Indigenous People in the Chittagong Hill Tracts by Government- Sponsored Migrants: In Search of a Solution;* trabajo presentado en un Diálogo Abierto y Seminario sobre 'El problema de Chittagong Hill Tracts y su Solución', organizado por el Comité nacional para la Protección de los Derechos Fundamentales en Chittagong Hill Tracts, en el Centro Cultural Alemán, Dhaka el 2 de junio, 1995. Ver también, Rajkumari Chandra Kalindi Roy, *Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh,* Jumma Peoples' Network in Europe (JUPNET), 1996 por el problema del despojo de tierras y en general. Este informe sobre la situación de los derechos rurales en Chittagong Hill Tracts es probablemente el estudio más exhaustivo sobre los derechos rurales de los pueblos indígenas en Chittagong Hill Tracts hasta la fecha.

54) Ver, p. 7, supra.

55) Estos bosques aldeanos de propiedad común son reconocidos y alentados, por la disposición 41A de la Reglamentación de Chittagong Hill Tracts de 1900 aunque el título de los aldeanos a los mismos no está formalmente reconocido.

56) Kabita Chakma y Glen Hill, *Thwarting the Indigenous Custodians of Biodiversity* en Gain, op. cit., p. 127.

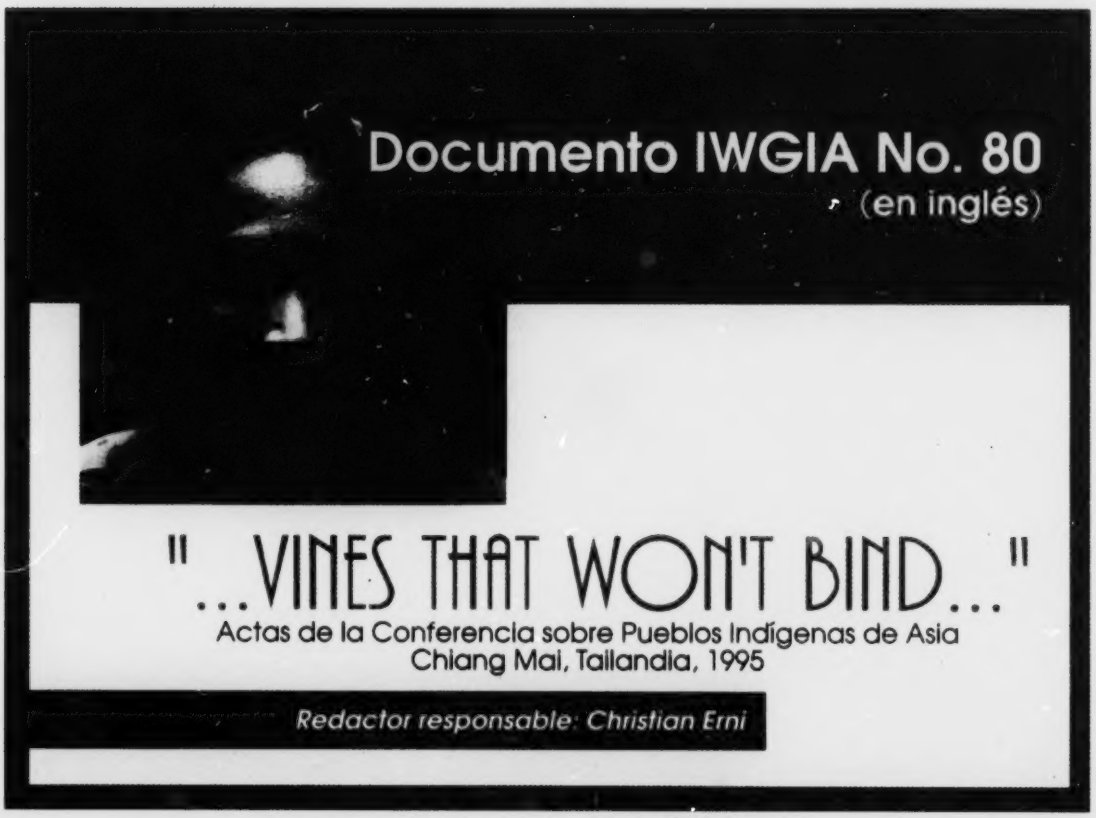
57) El autor está agradecido con Tuku Talukder de Rangamati por la información. Aunque la consecuente presencia de estas flores en los campos «jum» era bien conocida por el autor, no era conciente de las cualidades para fijar el nitrógeno de estas flores tal como es el caso de incluso algunos agricultores «swidden», quienes la plantan hoy en gran medida a causa de consideraciones estéticas y por tradición.

58) Chakma and Hill en Gain, op. cit., p. 127.

59) El autor está en deuda con Loffler (op. cit., p. 9) por la información sobre la contribución de los agricultores «swidden» de Chittagong Hill Tracts al patrimonio que representa la muselina de Bengala. Desafortunadamente esta contribución no es reconocida en las versiones populares de la historia de Bengala y Bangladesh.

60) Chakma Salil Roy, *The Economic Problems in the Chittagong Hill Tracts and their Solution* (en bengalí) en Sushamoy Chakma (ed.), 'Bijhu', Dhaka (1979), pp. 7-24.

Trabajo presentado ante el Panel Intergubernamental sobre Bosques, Encuentro internacional de pueblos indígenas y otros pueblos dependientes de los bosques sobre el manejo, la conservación y el desarrollo sustentable de todos los tipos de bosques, organizado por la Alianza Internacional de Pueblos Indígenas-Tribales de los Bosques Tropicales, COICA, ONIC y OPIAC con la colaboración de los gobiernos de Colombia y Dinamarca. Leticia, Colombia, 9-13 de diciembre de 1996. ❑



Lecciones de las experiencias en Canadá

Por Peter Jull

En Australia, se habla de «los acuerdos regionales» como un posible acercamiento al título nativo, pero pocas personas saben lo que son.

Los acuerdos regionales han surgido en partes remotas de Norte América del mismo modo que en las partes septentrionales y remotas de Australia a través de negociaciones entre los pueblos indígenas y el gobierno. Son un paquete de derechos de tierra y mar, incluyendo la propiedad total de algunas áreas y el manejo substancial, y beneficios del área en sentido más amplio, tradicionalmente ocupada o usada por temporadas por los pueblos indígenas.

En el paquete hay organismos reglamentarios compuestos de indígenas y delegados oficiales quienes deciden los asuntos de desarrollo y planeamiento, incluyendo el manejo de especies terrestres marítimas y la protección ambiental. También incluyen asistencia y financiamiento para el desarrollo indígena, además de capacitación y oportunidades de empleo y el poder para los indígenas de manejar sus propios asuntos en lo atinente a la salud, la educación, la asistencia social, la infraestructura de la comunidad, etc..

El resultado más importante es que el gobierno legisla los acuerdos como ley nacional para otorgar seguridad real a los pueblos indígenas. La seguridad les permite participar como iguales en el mundo del hombre blanco, algo que los programas sociales oficiales y las leyes antidiscriminatorias no han conseguido.

En 1975 el Acuerdo de James Bay y Norte de Quebec fue el primero de Canadá. Tuvo muchos problemas en la practica requiriendo posteriores mejoras. Los australianos presumen con frecuencia que la ley indígena canadiense es más perfeccionada. No obstante, los derechos indígenas fueron ignorados y pisoteados por los gobiernos de Canadá hasta los años 1960s. En Canadá como en Australia, el cambio de la actitud pública, la presión internacional, el activismo indígena y una decisión sorprendente de la suprema corte produjeron el cambio.

Los temores sobre el título nativo en Australia hoy en dia son familiares para los canadienses, quienes tuvieron el mismo debate después de la decisión Calder de 1973, la cual, como Mabo, dio un reconocimiento legal a todos los conceptos antiguos de los derechos indígenas. Como historiadores canadienses y como el australiano Henry Reynolds han demostrado, el gobierno británico y algunas veces nuestros ancestros colonizadores, reconocían más derechos indígenas de lo que recordamos ahora.

Los acuerdos regionales canadienses no son un regalo de gobiernos buenos. Son el resultado de muchos conflictos entre aquellos que querían explotar petróleo y gas, plantas hidroeléctricas, minas, rutas de transporte marítimas y terrestres y otros proyectos, y los pueblos indígenas que usan las mismas áreas para alimentarse y sustentarse.

En los años 1970s, las luchas entre los pueblos indígenas y la industria se extendieron a través del norte de Canadá, con los gobiernos de las provincias y de territorios tomando partido con los explotadores y el gobierno federal que en un momento estaba a favor de unos y al otro momento a favor de los otros. Después de un tiempo, los canadienses exigieron soluciones.

Los australianos han observado la experiencia canadiense y están trazando sus propias conclusiones en libros como *Acuerdos Regionales* de Richardson, Craig y Boer, publicado por la Unidad de Investigación del Norte de Australia, en Darwin, o en *Justicia Social Indígena*, publicado por el Comisionado de Justicia Social Aborigen, Mick Dodson, en Sydney, ambos publicados en 1995. Dos conferencias en Cairns produjeron material importante publicado como: «Una buena idea esperando ser realizada», editada por Harris (1995), y ATSIC Seminario de Acuerdos Regionales, del 29 al 31 de mayo de 1995.

Los primeros acuerdos regionales modernos fueron inspirados en parte por el fracaso de los tratados con los indígenas americanos y canadienses. Los nuevos acuerdos son llamados ahora «tratados» o «tratados modernos». Estos son tan exitosos que la Comisión Real de Pueblos Aborígenes, en su trabajo maratoniano finalizado al final del año pasado, recomienda que todos los programas y políticas indígenas canadienses sean transformados en acuerdos regionales permitiendo a los antiguos pueblos volver a ser pueblos auto-gobernados dentro de la federación canadiense.

Como el jefe *inuita* de Quebec Charlie Watt, quien dirigió la firma del primer acuerdo regional en 1975, con frecuencia dice, ha habido muchos problemas prácticos, pero al menos su pueblo ha obtenido los instrumentos para solucionar sus propios problemas. Los indígenas ya no están ni olvidados ni marginados, sino que son verdaderos participantes de la sociedad canadiense. Tal vez todo esto es lo que los australianos llaman «reconciliación».

Hay un algo de ironía en los acuerdos canadienses. Los inuitas y los indígenas fueron acusados de tratar de dividir al país o separarse en su lucha por el título nativo. Ahora el acuerdo de Quebec de 1975 es un asunto clave de negociación para mantener al Canadá unido. Los inuitas y los *cree* no quieren que sus territorios, más de la mitad de Quebec, sean separados del Canadá. Han avergonzado a muchos anglo-canadienses pasivos.

Las costas tropicales y árticas son muy similares. Alrededor del Cabo York, Estrecho Torres, el Golfo y a través del norte de Australia, como las costas de Norte América, Europa y Rusia, los pueblos indígenas están defendiendo su forma de vida en contra de los gobiernos y la industria.

Si la ganadería australiana en territorio indígena ha sido el principal problema, Canadá tiene lo opuesto. El caribú, un reno migratorio estacional, es un alimento esencial para los *indios* y los inuitas pero ese animal se altera fácilmente por los ruidos de la gente trabajando o viajando en aviones u otra clase de vehículos.

Las luchas canadienses sobre el título nativo y el desarrollo, con frecuencia implican ejércitos trajeados de abogados costosos y magnates de cara roja sentados inflexibles mientras un antiguo cazador en su primer y único viaje al sur describe a través de interpretes a los jueces como el caribú o las ballenas narvales reaccionan frente a diferentes molestias de procedencia humana y tecnológica.

En lo inmediato, sin embargo, los acuerdos regionales son medios para los pueblos indígenas para comenzar a solucionar sus problemas comunitarios, que las políticas y el paternalismo de los blancos no solucionara, ni puede hacerlo.

Peter Jull es miembro del Consejo Asesor de IWGIA. ❑

LA GUERRA FRIA NO HA TERMINADO

ADA: vuelos antes la N re ssinan

por Andreas Knudsen

La Nación Innu - Introducción

El pueblo *innu* ha vivido en el interior de lo que ahora es llamado el norte de Quebec y Labrador durante más de 8.000 años. Innu significa «ser humano». Pertenecen a la familia lingüística *algonquín* y están estrechamente vinculados con los *cree*. Existe confusión frecuentemente entre los innu y los *inuit* (esquimales). Los innu son muy distintos de los inuit que habitan las regiones costeras más septentrionales del Labrador y Quebec y sobreviven en base al entorno marítimo. Hasta hace poco, los antropólogos llamaban a los innu *montagnais-naskapi*.

La vida nómada de los innu requiere grandes espacios para la caza y las trampas. Una cultura de cazadores y tramperos no puede ser restringida a reservas. La historia innu está arraigada a la tierra que los rodea. Cada lago, río y montaña de la península de Quebec-Labrador tiene un nombre en la lengua innu. Las memorias personales y los relatos conectados con la religión y los orígenes del pueblo innu están vinculados a la tierra.

A diferencia de lo sucedido con otras Naciones Originarias de Canadá, ni el gobierno federal ni las compañías mostraron gran interés por las tierras tradicionales innu hasta la década de 1960. Desde entonces, el interés de las compañías canadienses y multinacionales en la madera, los recursos minerales, las reservas de agua energéticas, y el uso como área de entrenamiento militar, ha crecido en forma sostenida.

Reseña de las actividades militares

Aunque la Fuerza Aérea canadiense, estadounidense y británica habían estado representadas en Goose Bay desde 1941, este artículo trata sólo del período a partir de 1980 debido al abultado incremento del número de los vuelos militares que amenazan el estilo de vida innu a partir de entonces. Además, debe ser subrayado que los despegues y ejercicios no son vuelos de

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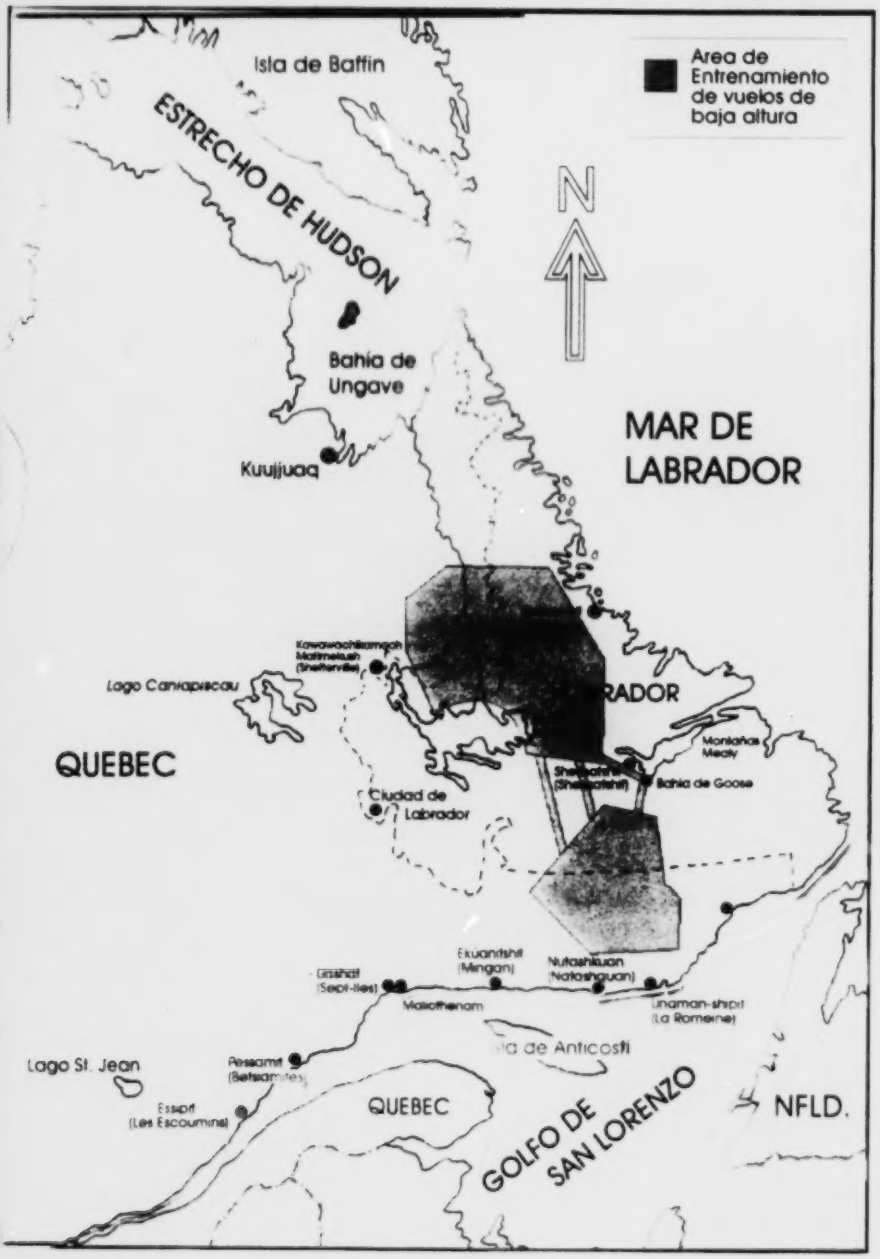

la OTAN, sino vuelo de países de la OTAN, basados en acuerdos bilaterales con Canadá.

Desde 1980, la atención de los vuelos de entrenamiento cambió a maniobras de vuelo de baja altura específicamente ofensivo, poniendo a los aviones a reacción y a sus ruidosos motores, a 100 pies de altitud, unos 30 metros sobre el suelo. Los ejercicios de vuelo de baja altura tienen su origen directo en la modernización de los armamentos aéreos y la consecuente evolución de la tecnología del radar. Hay dos terrenos de bombardeo y 69 objetivos de cámara esparcidos por el territorio. Las maniobras incluyen prácticas de combate a nivel del suelo, armas de disparo frontal y bombas de prueba de 1.000 kilos. Como triste resultado, el terreno de bombardeo original está ahora cubierto de cráteres lunares y lleno de deshechos de bombas. Estos ejercicios eran realizados sobre el área circundante, un vasto paisaje de taiga, poco poblado, habitado por una sociedad tradicional cazadora y recolectora: los innu.

En 1980, la escala de los entrenamientos aumentó dramáticamente, y para la década de 1990, Holanda, Alemania y el Reino Unido, combinaban de 6.000 a 7.000 despegues de la base sobre territorio tradicional innu durante la estación anual de vuelos, de siete meses de duración. Sólo la cantidad de despegues se convirtió en un problema para el medio ambiente y justificó que el proyecto fuera sujeto a una evaluación ambiental.

En 1986, los arreglos bilaterales firmados entre los gobiernos de Canadá, los Estados Unidos, Gran Bretaña, Alemania y Holanda, establecieron la base legal formal para el uso de territorio tradicional innu nunca cedido, para los próximos diez años. Otros países como los EE.UU. (detenido), Francia (sólo 1996), Bélgica (desde 1996) e Italia (detenido), también usaron la base para entrenamientos de vez en cuando.

De acuerdo a la estrategia militar de la OTAN, los pilotos necesitan entrenamiento para poder realizar vuelos por debajo del radio de acción de un potencial sistema de radar enemigo. Por lo tanto, la mayoría de los vuelos de baja altura ocurren en un «Área de Entrenamiento de Vuelos de Baja Altura» localizada en Labrador y Quebec, al norte y al sur de Goose Bay. Sin embargo, los vuelos de entrenamiento no se hacen en tobogán sino que se concentran en áreas lacustres, pantanosas y en los valles de los ríos y coinciden en gran medida con sectores importantes del territorio de caza innu. Además de eso, los ejercicios son bastante peligrosos, no sólo para el medio ambiente, sino también para los pilotos. Ocurrieron varios accidentes, p. ej., dos aviones holandeses se precipitaron a tierra como consecuencia de una colisión a media altura en mayo de 1990.

El 1 de mayo de 1995, Canadá aprobó en forma condicional un aumento de la cantidad de los despegues anuales de vuelos militares de entrenamiento, de 7.000 a 18.000, incluyendo 15.000 despegues de vuelos de baja altura. Además de eso, el área de vuelo va a ser aumentada de los 100.000 km² originales a 130.000 km², con terrenos de bombardeo adicionales. En febrero de 1996, fue firmado un nuevo MMOU (Memorándum Internacional de Entendimiento) entre Canadá, Holanda, Alemania y el Reino Unido. El presidente innu, Peter Penashue, comenta la firma con las siguientes palabras «es un día triste para los innu y Canadá».

Holanda firmó un nuevo acuerdo el 24 de diciembre de 1996, pero los ejercicios de vuelos de baja altura holandeses están detenidos hasta que el Parlamento firme el MMOU. Esto sucederá seguramente en la primavera de 1997.

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El gobierno canadiense considera el arrendamiento del espacio aéreo a otros países de la OTAN como su contribución a la política de defensa común. Al mismo tiempo, los ingresos provenientes de los pagos europeos por el arrendamiento ahorraron a los ciudadanos canadienses que pagan impuestos una buena parte del dinero necesario para el funcionamiento de Goose Bay. De esta manera, la cancelación de un Centro de Entrenamiento Táctico de Combate y Armamento de la OTAN ([O] TFWTC) a causa de un cambio de la estrategia de la OTAN y el final de la Guerra Fría, fue un golpe para la estrategia común del gobierno federal canadiense y de la Provincia de New Foundland para la creación de más fuentes de trabajo mediante la militarización de un área subdesarrollada.

Efectos negativos sobre el medio ambiente

Este artículo sólo puede brindar información muy básica con respecto a la evidencia de impactos negativos sobre la fauna que pudieran resultar de su exposición a la aviación militar.

La península del Labrador está repleta de lugares de cría de caribús, castores, patos, gansos y otras aves acuáticas migratorias. Los aviones volando a baja altura pueden causar daños o la muerte a esos animales debido a las estampidas, las cuales ocasionan la quiebra de miembros, abortos de animales preñados, asfixia de las aves de corral causada por el pánico en los corrales de los pollos y de las aves ponedoras, pérdida de la leche, pérdida de huevos, huevos rotos y sangre en los huevos, y provocan enfermedades inducidas por la tensión, tales como la enfermedad de Marek en las aves de corral. Sin embargo, incluso en los lugares donde las actividades de vuelos de baja altura son comunes, hay momentos particularmente sensibles del año, cuando los caribús son más vulnerables. Esto es particularmente cierto durante la estación de alumbramientos, cuando los animales preñados y los animales recién nacidos son más fácilmente asustables por ruidos y movimientos súbitos. A continuación, se mencionarán algunos ejemplos de cómo los vuelos de baja altura afectan a la fauna.

En 1981, el biólogo del Servicio Canadiense de la Fauna (CWS) estimó que una población de aproximadamente 500 patos negros se había congregado en el Lago Snegamook en 1980. Pero sus esfuerzos por agruparse coincidían con el comienzo de los vuelos intensivos de baja altura de los F-4 de la Fuerza Aérea de Alemania Occidental. Cada día se experimentaba un promedio de dos sobrevuelos. En 1981, los patos negros abandonaron virtualmente el delta de Snegamook. Los pedidos de los biólogos dieron como resultado una reducción de los vuelos en 1982-83 y el uso del lugar por los patos negros aumentó a 200-300 en 1982 y 1983, pero no alcanzó los altos niveles observados en 1980.

El biólogo de CWS, Goudie, condujo una serie de investigaciones aéreas de los patos arlequines en el norte del Labrador en 1987. Se registraron las respuestas de las hembras al pasaje del helicóptero sobre centros de corrientes de agua a 15-25 m de altura y a velocidades de 110 kph. Goudie (87:3) destacó que «las hembras sin crías huían rápidamente ante el acercamiento del helicóptero mientras que las hembras con cría exhibían ge-

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F-16 sobre Canada (postal oficial postcard de la Fuerza Aerea Real Holandesa)

neralmente un comportamiento distraído.»

Los efectos de las aeronaves sobre los gansos de la nieve fueron también estudiados durante 1973 en la Vertiente Norte de Yukón-Alaska (Davis y Wisely, 1974). Este estudio documentó que mientras que se alimentaban para obtener reservas grasas para el invierno, los gansos eran molestados por los sobrevuelos de los aviones. Los autores concluyeron que esta pérdida de tiempo de alimentación no podía ser compensada y podía resultar en una gran reducción (aprox. 20%) de la reservas de energía.

En 1987 y 1988, el Dr. Fred Harrington de la Universidad de Mount Saint Vincent y Alasdair de la Universidad de Alberta, condujeron un estudio sobre el impacto de los vuelos militares de baja altura de entrenamiento sobre el caribú del Rebaño de Red Wine. Señalaron que el período de nacimientos es muy crítico en el ciclo de vida del caribú y la alteración durante este período puede resultar en nacimientos muertos, heridas, o separaciones de la madre y la cría.

La reducción en las tasas de nacimiento, el traslado a hábitat libre de insectos a expensas de la calidad alimenticia, los costos energéticos del comportamiento para evitar a los insectos y la simple pérdida de sangre pueden aumentar la susceptibilidad del ternero a otros factores de «stress» durante el período estival de insectos.

Harrington y Veich concluyeron que la supervivencia de los terneros es negativamente proporcional a la exposición a vuelos de baja altura, lo cual indica que ya los niveles de actividad de entrenamiento de la década de los 80 pueden haber llegado a un nivel en el cual los impactos negativos sobre la supervivencia de los terneros se podrá notar. «Juntos, los efectos de los animales de presa y las molestias de la actividad del entrenamiento de baja altura pueden impedir la recuperación de la población de Red Wine, a pesar de más de 15 años de protección contra la caza por parte de los seres humanos» Harrington y Veich, 1992).

Los cazadores innu han observado cambios en los modelos de migración del caribú, la perdiz nival y los peces, que mueren sin razón aparente y una tasa de natalidad menor de los castores. Ellos especulan que los aviones militares pueden ser responsables de alguna manera de estos cambios.

El caso de un criador de zorros de Chatham, Nueva Brunswick, apoya estas especulaciones. El Departamento de Defensa Nacional canadiense (DND) tuvo que pagar $45.000 como compensación por daños causados por aviones militares. Según la demanda del criador, el sobrevuelo de un avión a reacción CF5 durante una misión de entrenamiento, en marzo de 1988, molestó a sus zorros en tal grado que las hembras devoraron a sus cachorros recién nacidos y las hembras preñadas abortaron sus fetos.

En 1986, como resultado de la presión pública, el DND acordó someter a los vuelos de entrenamiento a un Proceso de Revisión y Evaluación Ambiental. Hasta entonces, el Departamento no había realizado ninguna investigación sobre los impactos de la aviación militar sobre las personas y la fauna de Quebec-Labrador. En octubre de 1989, el DND presentó una

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declaración de impacto ambiental (EIS) de $6 millones al Panel de Asesoramiento Ambiental. Durante los próximos meses, los asesores técnicos del panel, los interventores y los expertos independientes criticaron duramente al EIS, y pronto obtuvo la reputación de ser el peor EIS de la historia de la investigación ambiental canadiense. En mayo de 1990, el panel de evaluación ambiental publicó una declaración de 38 puntos de deficiencia, exigiendo que el DND volviera a la mesa de planificación para corregir los serios problemas de su EIS.

A partir de fines de los 80, fue lanzada una Estrategia del DND para Evitar y Mitigar los efectos de los vuelos de baja altura sobre áreas sensibles a los ruidos. Este programa implica el sobrevuelo de áreas con campamentos innu, inuit, colonos y de pescadores deportivos a un radio de 2,5 mn. de las áreas de ponederos, mudamiento de piel y concentración de aves acuáticas migratorias, áreas de concentración de caribús y alces y áreas tramperas. El mencionado radio brinda alguna protección contra los sobrevuelos a las mujeres y niños innu, quienes raramente se trasladan a más de esa distancia de los campamentos base, pero no hace nada para proteger a los cazadores, quienes en general viajan a distancias mucho mayores de sus campamentos o a los animales que viven en otras partes. Quedó demostrado rápidamente que la enorme cantidad de «lugares álgidos» haría imposible o al menos muy difícil para las fuerzas aéreas aliadas cumplir con sus programas de entrenamiento. Incluso con el funcionamiento de las mínimas restricciones, las fuerzas aliadas ya se están quejando. Por ejemplo, en diciembre de 1991 el Comandante Erskine, de la RAF, expresó al periódico de Happy Valley-Goose, The Labradorian, que llegaría el momento en que las restricciones podrían superar el aspecto positivo de Goose Bay. «Tenemos que ver cómo salen las cosas. Obviamente, si nos ponen más y más restricciones, llegará un momento en que no tendrá sentido - no podemos hacer lo que queremos hacer, así que no tiene sentido estar aquí».

El 1 de mayo de 1995, Canadá aprobó condicionalmente un aumento en la cantidad de despegues anuales de vuelos militares de 7.000 a 18.000, incluyendo 15.000 despegues de vuelos de baja altura. Esta decisión fue basada en las recomendaciones de febrero de 1995 de un Panel de Evaluación Ambiental al cual se le encargó un informe sobre los impactos de los vuelos militares de baja altura. A pesar de los $10 millones gastados por el DND para estudiar los impactos, el Panel informó que existía incertidumbre con respecto a los efectos sobre el medio ambiente y sobre la salud, de los vuelos de baja altura y sobre la efectividad del programa de DND para evitar el sobrevuelo de áreas sensibles.

El Panel también señaló que estas incertidumbres, junto con la tensión social y la polarización en torno del proyecto eran tales, que una primera reacción podría ser que el proyecto no debería comenzarse. No obstante, el Panel dijo que los beneficios económicos del proyecto para la comunidad de Happy Valley-Goose Bay, de 8.600 personas predominantemente no-aborígenes, pesaba más que los derechos de los innu y la protección ambiental. En otra ocasión, Daniel Ashini, Director de los Derechos y el Medio Ambiente Innu, explicó su punto de vista sobre la economía: «nosotros (los innu-el autor) creemos que es muy difícil de comprender un sistema que considera a bosques plenamente en función como terrenos 'baldíos' y que su limpieza sea buena para la economía. La economía constituye una pequeña parte de las culturas, y si bien ellos lo niegan, las culturas son finalmente apenas una pequeña parte de los ecosistemas. El error más grande que los seres humanos pueden cometer es creer que pueden invertir este orden natural y subordinar a todo y a todos a 'la economía'». Con relación a las interferencias económicas entre DND y la población local no-aborigen, ver también la Cronología, 1986.

Durante el proceso de audiencia de la Revisión de la Evaluación Ambiental en 1995, ocurrieron diversos problemas que hicieron que la Nación Innu se retirara del proceso porque no deseaba convertirse en una «hoja de parra» de una sustentabilidad de los vuelos a baja altura decidida a priori. A continuación damos unos pocos ejemplos que ilustrarán cómo el proceso de audiencia fue coordinado.

- El Panel realizó las audiencias con suma prisa, comenzando el 19 de septiembre y terminando el 29 de octubre. Esta circunstancia forzó a los miembros del Panel a asimilar y comprender una gran cantidad de datos y análisis sumamente técnicos. Queda la interrogante sobre su capacidad de hacerlo.
- El Panel programó audiencias públicas en las comunidades innu cuando la mayoría de los innu afectados por los vuelos de entrenamiento estaban en sus campamentos cazando, poniendo trampas y pescando. Por lo tanto, p. ej., nadie se presentó ante el Panel en St. Augustin porque el mismo había elegido el momento del año en que la mayoría de los hombres más interesados en los entrenamientos estaban cazando alces.
- A los grupos innu se les negó la capacidad de interrogar a los funcionarios del DND y a los expertos técnicos para poder descubrir adecuadamente presunciones subyacentes y diferencias de datos en los argumentos del DND.
- El Panel redujo su lista de expertos técnicos de 22 a 7, derivando a un asesoramiento técnico independiente en muchas áreas cruciales. Algunos de ellos, p. ej., Carol Brice-Bennett, fueron censurados por el presidente del Panel cuando trataron de referirse a las deficiencias del proceso de revisión del EIS del DND.

Con estos antecedentes, es difícil creer que todas esas circunstancias son pura coincidencia.

> *«El DND quisiera que el mundo creyera que el proceso de evaluación ambiental que otorgó luz verde a un aumento de los vuelos de entrenamiento, era justo y objetivo, pero hemos demostrado que el proceso favoreció al DND. Los innu se retiraron del proceso cuando quedó claro que el Panel de Evaluación Ambiental no les otorgaría una audiencia justa.»*
> *El Presidente de la Nación Innu, Peter Penashue, en referencia a los impactos ambientales de los vuelos de baja altura, el 20 de febrero de 1996.*

A causa de las incertidumbres ambientales, el Panel recomendó el establecimiento de un Instituto para monitorear los entrenamientos de vuelos militares y para recoger más información sobre el medio ambiente, incluyendo el uso aborigen de la tierra, lo cual fue aprobado por el Gabinete canadiense. El Instituto no toma decisiones sino que hace sólo recomendaciones al DND y al Ministro para el Medio Ambiente en lo relativo a estos asuntos. Los innu no se oponen a la existencia y trabajo del Instituto, pero tienen varias demandas relativas a su función y responsabilidades. Primero, el Instituto debe ser una agencia reglamentaria y debe tener el poder de tomar decisiones en lugar del DND «el cual es el descarado proponente y el agente de ventas internacional del constante aumento del nivel de los vuelos a baja altura».[1] Segundo, el Instituto no debería trabajar

según la filosofía de «ver lo que pasa», porque este tipo de manejo adaptativo es contrario a la protección del medio ambiente. Tercero, los innu quieren tener un papel importante en las tomas de decisiones del Instituto de acuerdo con sus derechos protegidos por la Sección 35 de la Constitución del Canadá. Cuarto, el nivel de los vuelos de baja altura debe ser congelado al nivel del primer MMOU, y quinto, el aumento del nivel de despegues debe ser conectado con un acuerdo amplio de derechos entre el Canadá y la Nación Innu. Aunque la forma actual de trabajo del Instituto está lejos de satisfacer las demandas innu, Mamit Innuat y la Nación Innu participan de su trabajo en una base de prueba durante seis meses. Considerando el hecho de que sin su participación dejarían la mitigación ambiental de los entrenamientos de vuelo completamente al DND, no tenían ninguna otra alternativa y decidieron que era mejor estar adentro que afuera.

Cambios en la vida social y cultural de los innu

En los años 50 y 60, tanto el gobierno Federal como los gobiernos provinciales llevaron adelante una política de asimilación de los pueblos indígenas. En ese entonces, la mayoría de los innu vivían todavía de la caza y las trampas como sus ancestros. A fines de los años 60, los innu del Labrador fueron asentados forzadamente en las comunidades de Sheshatshiu y Uthimassit. Los padres innu fueron amenazados con encerrar a sus hijos en una escuela de internado lejos de su hogar y de castigarlos si no enviaban a sus niños a las escuelas locales para que en cambio fueran al monte. Los asentamientos fueron realizados por sacerdotes católicos, quienes tenían una gran influencia sobre muchos innu. Después de que los innu se asentaron permanentemente en aldeas, se convirtieron en «proyectos» para el trabajo de bienestar social, pero las autoridades mal orientadas, no conscientes de las necesidades de la vida del cazador y de las consecuencias de cambiar el estilo de vida de cazador independiente a cazador asentado, los convirtieron en una clientela dependiente.

Hoy hay 10.000 innu que viven la mayor parte del año en 11 aldeas a lo largo de la costa norte del río San Lorenzo y en dos comunidades del Labrador.

Yo pertenecía a la primera generación de niños innu nacidos en la comunidad. En mi infancia, Sheshatshiu era un lugar en el cual se podía encontrar todo tipo de problemas sociales, como el alcoholismo, la violencia familiar y el abuso sexual. En la escuela, se nos decía que teníamos que educarnos, modernizarnos. Se nos decía que las antiguas costumbres estaban muertas, y en ese momento, era fácil de creerles. Muy pocas personas se internaban en el campo, pero muchos tenían trabajos asalariados en muchos proyectos de creación de fuentes de trabajo que funcionaban en ese entonces.

A partir de entonces, muchas cosas han cambiado. Muchos han retornado al campo, viviendo allí permanentemente o al menos durante una parte del año. Es ahora un orgullo ser considerado como un buen cazador que es capaz de sustentar a su familia de esa manera. En el monte, o *nutshimit* como lo llaman los innu, la salud y la paz de espíritu son restablecidas. Muchos innu están preocupados por la pérdida de su cultura e identidad como innu. Además, el sobrevuelo de los campamentos y de los cazadores innu ha traumatizado a muchos niños y ancianos.

La situación legal de la Nación Innu

Suena absurdo que un pueblo, cuyos ancestros habían vivido en la península de Quebec durante generaciones cuando los primeros descubridores europeos llegaron a sus costas, tengan que dar argumentos en apoyo de sus derechos inherentes y tradicionales a esta tierra, a los descendientes de aquellos descubridores y que deban usar sus términos y formalidades. En general, los primeros tratados entre los colonizadores europeos y los EE.UU. y el Canadá confirman que las naciones indígenas

- eran poderes soberanos
- tienen o tenían títulos transferibles de algún tipo a la tierra en cuestión; y
- la adquisición de las tierras indígenas no podía ser dejada en forma segura a los particulares, sino que debe ser controlada por un monopolio gubernamental[2].

Pero la Nación Innu nunca firmó un tratado o algo semejante que otorgara jurisdicción sobre su territorio a la corona británica, o francesa, o al Canadá. Para argumentar en términos legales euroamericanos, la Nación Innu tiene que usar la Proclama Real de 1763. Esta ley describe a las naciones indígenas como entidades plenamente soberanas, conectadas a Inglaterra sólo por tratados. Toda relación política futura, incluyendo la paz y acuerdos para compartir la tierra, debía ser lograda a través de tratados formales. En principio, esta posición está todavía vigente aunque las cambiantes políticas británico-canadienses han ganado más y más control político y legal sobre las naciones indígenas. Canadá, como sucesor legal de Gran Bretaña, ha asumido sus obligaciones.

Las actuales negociaciones entre Canadá y la Nación Innu están basadas en la Proclama Real. Además, la constitución canadiense reconoce en la Sección 35(1) los derechos aborígenes y de tratados existentes. Se suma a ésto que la evidencia arqueológica e histórica y la práctica común de las autoridades federales y provinciales no dejaron ninguna duda de que la Nación Innu tiene «derechos inextinguibles a la tierra». La Sección 35(3) de la Constitución declara que un acuerdo de tratado entre Canadá y las Naciones Originarias, tales como la Nación Innu, gozará de protección constitucional, lo cual significa que los derechos reconocidos en tales acuerdos no pueden ser violados por la ley federal o provincial o por acciones federales tal como firmar tratados con socios de la OTAN.

Esto significa que Canadá está violando su propia Constitución al realizar el MMOU con Gran Bretaña, Holanda y Alemania antes de haber concluido sus negociaciones con la Nación Innu, las cuales determinarán si en realidad Canadá tiene algún derecho a otorgar derechos a terceras partes en Quebec/Nitassinan.

Los socios de la OTAN también están violando los derechos humanos internacionales de los innu al firmar el MMOU, porque están predisponiendo el resultado de las negociaciones del tratado entre los innu y Canadá. Esta es una violación de muchos artículos del convenio de derechos humanos firmado por Canadá y sus socios europeos.

Los socios de Canadá argumentan que estarían interfiriendo con los asuntos internos del país si cuestionaran la afirmación de Canadá de que tiene derecho a otorgarles permiso para realizar vuelos de baja altura. Pero, p. ej., las Naciones Unidas declararon en ocasión de las intervenciones en Somalia y Bosnia que bajo ciertas circunstancias, la interferencia en los asuntos internos de un país tiene mucho más valor que la soberanía nacional. Además, cuando la comunidad internacional boicoteó a Sudáfrica a causa de su política interna de «apartheid», ni el gobierno canadiense ni los gobiernos europeos (occidentales) cuestionaron la legalidad de su decisión. Suponiendo que

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el derecho internacional sea realmente uniforme, no existe ninguna diferencia entre intervenir en los asuntos internos canadienses o bosnios.

Con estos antecedentes, es vergonzoso notar que los ejercicios militares con efectos militares cuestionables y consecuencias precarias para la salud de los innu y el medio ambiente, tengan el poder de destruir el renacimiento cultural de los innu. La posición de la Nación Innu es en favor del derecho a vivir en su territorio sin ser molestados por las fuerzas aéreas extranjeras. Los vuelos de baja altura amenazan su identidad cultural al amenazar su territorio, el cual es la tierra donde viven y que los sustenta. Luchan por el derecho humano básico a la autodeterminación en su propio territorio, el cual piden que sea apoyado.

Notas

1) Comunicado de prensa de la Nación Innu de 23 de mayo de 1995.

2) Glenn T. Morris: La situación internacional de las naciones indígenas dentro de los Estados Unidos. Uso la definición de Morris a causa de la práctica similar británico-canadiense - el autor.

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Edward S. Rogers and Eleanor Leacock: *Montagnais-Naskapi*: Handbook of American Indians, Volume 6, Smithsonian Institution, Washington 1981, pp 169 - 195.

Por más información tomar contacto con:
Innu Nation: PO Box 119, Sheshatshiu, Nitassinan (Labrador), A0P 1M0, tel.: (709) 497-8398, fax: (709) 497-8396, e-mail: innu@web.apc.org, Innu Nation WWW site: http://www.web.net/innu.
The International Campaign for the Innu and the Earth: 148 Kerr Street, Oakville ON L6K 3A7, Canadá, tel./fax: (905) 849 5501, e-mail: icie@web.apc.org.
Friends of Nitassinan: POB 804 Burlington, VT 05402, tel./fax: (802) 425-3820.
Europa: *Foundation Innu Support Group*, P.O. Box 13670, 2501 ER, La Haya, Holanda, tel.: +31 70 388 8553, fax: +31 70 4020943, e-mail: innusuppnl@gn.apc.org

Las cartas de protesta deben ser enviadas a:
Jean Chretien, Prime Minister of Canada, House of Commons, Ottawa, Ontario, K1A 0A6, Canada.

Reseña de las actividades de vuelos militares de entrenamiento sobre Nitassinan (Quebec-Labrador)

1941 Comienzo de la construcción de la base aérea de Goose Bay.

1952 Acuerdo de 20 años firmado con los EE.UU. transformando a Goose Bay en una base de apoyo del Comando Aéreo Estratégico.

1957 Comienzan los entrenamientos de la RAF (Real Fuerza Aérea Británica) y duran hasta 1982.

1978 El gobierno federal acepta a la Nación Innu para Negociaciones Amplias de Reivindicaciones.

1980 Comienza el entrenamiento de la Fuerza Aérea Alemana.
El líder innu Greg Penashue se opone a la militarización del territorio innu.

1983 Comienza el entrenamiento de la RAF con aviones Tornado GR1.

1984 Octubre, innu de La Romaine y Sheshatshiu comienzan una campaña nacional para detener el entrenamiento de vuelos militares sobre territorio innu.

1985 Los consejos tribales de Schefferville, St. Augustin y Natashquan aprueban resoluciones oponiéndose formalmente a los vuelos militares de entrenamiento.
El DND construye un terreno de práctica de bombardeo cerca del Lago Minipi.

1986 Comienza el Estudio de Impacto Ambiental (EIS).
13 de febrero: firma del Nuevo Memorándum Internacional de Entendimiento entre los gobiernos de Alemania, Gran Bretaña, Estados Unidos y Canadá.
Bélgica y Holanda realizan un ejercicio de prueba.
31 de mayo: el Ministro Federal de Justicia, John Crosbie, anuncia el otorgamiento de $140.000 al pueblo de Happy Valley-Goose Bay, Cámara de Comercio del Norte de Labrador, y la Asociación Regional Mokami para el Desarrollo, para establecer una nueva organización, el «Grupo del Proyecto Mokami», para promover la expansión militar. Durante sus cuatro años de operaciones, el grupo recibe más de $754.000 para realizar trabajos de relaciones públicas para el DND.
Varios viajes de representantes innu por Europa y Canadá para llamar la atención sobre su caso.
Noviembre: la Federación Internacional de Derechos Humanos publica un informe criticando los vuelos militares de entrenamiento en el espacio aéreo innu.

1987 Fracasan las negociaciones entre los innu y el gobierno.
Abril: innu de Sheshatshit ponen tiendas de campaña en un extremo de la pista aérea de Goose Way para protestar contra la reiniciación de los vuelos de baja altura.
Otoño: innu de Sheshatshit ocupan el terreno de bombardeo del Lago Minipi, deteniendo así la práctica de bombardeo de la Bundesluftwaffe y la RAF.

1988 Campamento de protesta establecido en un extremo de la pista aérea de Goose Bay, los innu comienzan repetidas marchas de desobediencia civil en la pista, se realizan numerosos arrestos.

1989 18 de abril; el Juez James Igloliorte emite una sentencia desestimando los cargos contra cuatro innu relativos a sus acciones de desobediencia civil en CFB Goose Bay. El juez acepta la defensa innu basada en su creencia sobre su propiedad de la tierra.

1990 Febrero: los innu y sus asesores técnicos celebran una conferencia de prensa en Toronto para criticar al EIS de Goose Bay del DND.
Marzo y abril: la Nación Innu intenta infructuosamente obtener una prohibición judicial contra los vuelos militares de entrenamiento.
Campaña de cartas y fax a los jefes de personal de la OTAN y representantes militares permanentes, gobiernos y partidos de la oposición.

1991 Los innu comienzan amplias negociaciones de reivindicación de tierras con los gobiernos de Newfoundland y Labrador.

1992 9 de enero: declaración revisada deficiente sobre el EIS de Goose Bay emitida al DND por el Panel de Evaluación Ambiental, conteniendo 29 deficiencias.
4-12 de octubre: cuatro innu viajan a Holanda. Ocupan la base aérea de Volkel para acrecentar la consciencia sobre este tema y son arrestados, junto con más de 40

David Colenette, Minister of National Defence, House of Commons, Ottawa, Ontario, K1A 0A6, Canadá.
Sergio Marchi, Minister of the Environment, House of Commons, Ottawa, Ontario, K1A 0A6, Canadá.
Ron Irwin, Minister of Northern/Indian Affairs, House of **Commons, Ottawa, Ontario, K1A 0A6 Canadá.**
Ministry of Defence, Secretariat of Air Staff 2a, Room 8245, Main Building, Whitehall, Londres, SW1A 2HB, Gran Bretaña.
Dr J.J.C. Voorhoeve, Minister of Defence, P.O. Box 20701, 2500 ES, La Haya, Holanda.
Mr Volker Rühe, Bundesverteidigungsministerium, Postfach 1328, D-53003 Bonn, Alemania.

Andreas Knudsen pertenece al Grupo Nacional de IWGIA en Dinamarca. ❑

simpatizantes holandeses. Una mujer y niños innu ocupan la pista aérea de CFB Goose Bay y son arrestados.
Sin discusión previa, el DND firma un intercambio de cartas con el Ministro de Defensa alemán, extendiendo los vuelos militares de entrenamiento de Goose Bay por diez años. Los innu se enteran de la magnitud del acuerdo a través de un noticiero de una radio local.
1995 El DND anuncia que las fuerzas aéreas belgas, francesas e italianas comenzarán un período de entrenamiento de prueba.
La revisión federal de la evaluación ambiental finalmente publica sus recomendaciones. Aunque admite la incertidumbre fundamental relativa al impacto general del entrenamiento, la lógica económica es priorizada y el panel se muestra favorable a la duplicación de la cantidad de vuelos y de un aumento sustancial del tamaño del territorio a ser sobrevolado. Los innu están indignados. Se recomienda el establecimiento de un Instituto Ambiental para monitorear los impactos.
1996 Canadá, el Reino Unido, Holanda y Alemania firman un MMOU renovado para los próximos diez años.
12 de octubre: campamentos de caza cerca de la base aérea de Volkel. La protesta es emitida por CNN y es noticia de primera plana en dos periódicos holandeses. ❑

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Convirtiendo la adversidad en ventaja:

TANZANIA

TANZANIA

Introducción

Hace más de 20 años que la Agencia Internacional Canadiense para el Desarrollo (CIDA) comenzó a financiar el Programa Triguero Tanzania-Canadá (TCWP). Durante ese tiempo, se han gastado más de $200 millones de dólares canadienses en el desarrollo de un complejo triguero que cubre un área superior a los 100.000 acres de las llanuras de Basotu, en el norte central de Tanzania. Esto se hizo en respuesta a una esperada alza de la demanda de trigo y con la perspectiva de ayudar al gobierno tanzaniano a convertirse en autosuficiente en lo que respecta a los granos alimenticios. Sin embargo, a pesar de importantes cosechas y el suministro de más de la mitad de los requerimientos de trigo del país, el TCWP no ha sido considerado como un éxito total. En realidad, ha sido criticado por una serie de razones, tanto por los habitantes indígenas como por los extranjeros.

Este artículo[1] efectuará una descripción de los antecedentes del programa, otorgando especial atención a los problemas de los pastores *barabaig* que fueron desplazados por el mismo. El propósito es poner al lector al tanto de los acontecimientos y actividades en torno a lo que ha sido conocido como «el caso de las tierras barabaig». Al mismo tiempo, argumenta que a partir de la adversidad los barabaig han sido capaces de obtener algo positivo, por lo menos el registro de una organización que representará sus intereses y actuará como un vehículo para la ayuda para el desarrollo en el futuro.

Apropiación de la tierra

El socio tanzaniano del proyecto era la Corporación Nacional para la Agricultura y la Alimentación (NAFCO). Solicitó autorización al gobierno local para adquirir 70.000 acres para siete plantaciones de trigo. Más tarde, fue expandido a más de 100.000 acres sin contemplación de los derechos consuetudinarios a la tierra de los barabaig, y sin el debido proceso legal ni ninguna referencia a las autoridades locales (ver Lane 1994 & 1996 por más detalles sobre el proceso de enajenación).

No es de sorprender que la mayor atención fuera dirigida hacia las parcelas de tierras de pastura más «húmedas». La inherente fertilidad y la ausencia de árboles de los que los barabaig llaman tierra *muhajega* la hacía ideal para el cultivo, y es esta tierra la que fue apropiada por el TCWP. La tierra en cuestión había ya sido identificada como «altamente apropiada para el cultivo mecanizado de tierras áridas» (Fenger et.al. 1986), y los intentos subsecuentes demostraron que su inherente fertilidad era tan alta que las cosechas no respondían a la aplicación de fertilizantes.

Lo que no fue tan claramente comprendido en ese momento era que esta misma tierra era considerada por los barabaig como su tierra y era sumamente apreciada por ellos por su capacidad productiva. En informes de evaluación del proyecto, la tierra fue descrita como «improductiva» y esta concepción fue utilizada para justificar su adquisición (Young 1983). Para los barabaig que usaban esta tierra, la misma era algo muy distinto que «improductiva». Por el contrario, constituía el más importante elemento en su rotación de pasturas - brindando el forraje tan necesario para la producción y la salud de los animales después de las privaciones de la estación seca.

Era posible considerarla como «improductiva» porque sólo era usada en ciertos momentos del año, y en otros era libre de la presencia humana. Sin embargo, no dejaba de ser tierra barabaig porque no siempre estaba en uso. Esto es así, porque el uso eficiente de los recursos escasos en un medio ambiente no equilibrado requiere que los pastores se desplacen por el terreno. Para que los barabaig puedan optimizar la producción necesitan estar allí donde la tierra es más productiva. La tierra que no es productiva en un momento en particular se deja regenerar en base a estrategias ecológicamente sanas para el uso sustentable de los recursos naturales.

El hacer uso de los recursos de esta manera requiere un régimen comunal de tenencia de la tierra, según el cual los usufructuarios de la tierra tienen derechos conjuntos al uso de los recursos mientras que el mismo tiempo determinan quién tiene acceso a qué, cuándo y cómo dentro de la propiedad común. La experiencia de este caso y otros similares en otras partes de Africa muestra cuán notoriamente difícil es defender las tierras comunales de la enajenación a causa de la peripatética naturaleza del uso de los recursos, el hecho de que las fronteras no están siempre claramente definidas, y la escasez de marcas claramente discernibles en el terreno (Galaty et. al. 1994).

Esto está basado en una falta de comprensión por parte de los que toman resoluciones a nivel gubernamental de la lógica ecológica que esconde el nomadismo y la subestimación del valor de la producción pastora. Esto ha alentado a los planificadores del desarrollo a pensar que la tierra de pasturas está mal utilizada y es más apropiada para un uso no-pastor. El TCWP fue un típico ejemplo de un enfoque centralizado del problema del déficit alimenticio, en el cual las necesidades y aspiraciones de los habitantes locales fueron excluidos de una evaluación de los impactos resultantes de la conversión de las pasturas en tierras de cultivo para el beneficio de las elites de base urbana.

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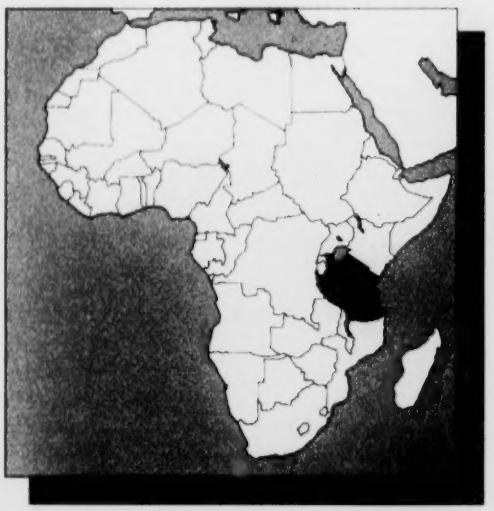
los pastores barabaig para proteger sus tierras y promover sus intereses



Campaña por los derechos territoriales

Mucho les ha pasado a los barabaig desde la iniciación de la implementación del programa. Mucho también ha sucedido gracias a ellos. Las consecuencias de largo alcance que surgieron del desplazamiento de los barabaig de sus tierras han sido descritas en detalle en otros materiales (Lane 1996). Resumiendo, no sólo el modelo barabaig tradicional de pastoreo ha sido transformado por la pérdida de recursos fundamentales de pasturas, sino que existen indicios de que esto ha conllevado impactos ambientales negativos, una economía impuesta y costos sociales para los barabaig, incluyendo niveles más elevados de mortalidad infantil (Blystad 1992, Borgerhoff Mulder 1990) y la violación de sus derechos humanos.

Violación de los derechos humanos

La pérdida del acceso a tanta tierra *muhajega* no sólo ha negado el acceso de los barabaig a sus recursos más productivos y ha reducido su capacidad de subsistencia, sino que también los ha expuesto a graves violaciones de derechos humanos. Algunos de aquellos que fueron expulsados de sus hogares tuvieron que sufrir actos tales como la quema de sus casas para asegurarse de que se retiraran y no volvieran. En aquellos lugares donde los barabaig trataron de reafirmar sus derechos volviendo a entrar a sus tierras, fueron considerados como «intrusos» y hostigados.

Las violaciones de derechos humanos fueron reconocidas por la Comisión sobre Violación de Derechos Humanos en las Granjas Trigueras de NAFCO en el Distrito de Hanang, presidida por el Juez Kisanga. El informe destacó que entre 1970 y 1992 los habitantes locales informaron sobre 149 casos de palizas, la demolición de 24 casas, la imposición de 77 multas sumarias, 83 violaciones y la profanación de 38 sitios sagrados. La Comisión admitió que aunque eran incapaces de confirmar la veracidad de todos los alegatos realizados estaban en condiciones de confirmar que «han existido una serie de incidentes de actos de maldad o abusos cometidos por algunos empleados de NAFCO contra algunos de los barabaig que viven en las cercanías de dichos establecimientos». De acuerdo a los barabaig, estos actos han sido cometidos desde que fueron expulsados por la fuerza por primera vez de sus tierras, y fueron probablemente infligidos con la aprobación tácita de algunos funcionarios gubernamentales en conspiración con agentes de la ley locales.

Desafío legal

Los barabaig intentaron por primera vez cuestionar la legalidad de la usurpación de tierras por parte de TCWP en un caso presentado por los residentes de la aldea Mulbadaw (*Consejo Aldeano Mulbadaw & 67 otros v. NAFCO* - Procedimiento Civil No. 10 de 1981) alegando que ni los barabaig locales ni el consejo aldeano fueron consultados cuando NAFCO adquirió tierras para el establecimiento triguero de Mulbadaw - uno de los siete establecimientos de TCWP. NAFCO no negó la adquisición de la tierra, pero alegó que tenía autoridad para adquirirla como organismo paraestatal que actuaba para el gobierno en el «interés público», y por lo tanto los procedimientos establecidos en la Ley de Adquisición de Tierras de 1967 no eran aplicables (Shivji 1995).

La Suprema Corte sentenció en favor de los barabaig, declarando que sus reivindicaciones consuetudinarias eran válidas y NAFCO no siguió los procedimientos legales adecuados para la adquisición de las tierras. Sin embargo, la decisión fue recusada en la apelación (Apelación Civil No. 3 de 1986) porque no todos aquellos barabaig presentes pudieron atestiguar exitosamente frente al tribunal las reivindicaciones tradicionales de aquellos que no estaban presentes, y de aquellos presentes, algunos no eran considerados como «nativos» según la definición de la Ordenanza de Tierras de 1923 y por lo tanto eran incapaces de poseer tierras. Esto fue un importante retroceso para la confianza de los barabaig acerca de la existencia de soluciones para sus problemas. Sin embargo, un aumento de la agresión de NAFCO contra los barabaig a continuación de la victoria inicial en el caso Mulbadaw, junto con la expansión de TCWP en la década de los 80, particularmente en los establecimientos de Gawal, Godagowmod y Waret alentaron a los barabaig a retornar a la justicia en otros dos casos.[2]

En el primero de estos casos los demandantes solicitaron al juez dispensación para que un representante incluyera a todos los afectados de la comunidad, para evitar el problema enfrentado en el caso Mulbadaw. El alegato presentado por el consejo que actuaba por los barabaig especificaba que NAFCO:

«...sin licencia, justificación legal o permiso de los Demandantes, entró por la fuerza en la tierra en cuestión,

incendió o destruyó por otros medios las viviendas de los Demandantes, causó la destrucción de las cosechas, ganado y bienes, y expulsó a los Demandantes de la tierra en demanda ... sin los procedimientos prescritos por la ley...»

Los barabaig deseaban ser declarados los dueños legales de la tierra demandada por medio de la tenencia consuetudinaria, y que los títulos emitidos en favor de NAFCO fueran declarados nulos y sin valor. Deseaban la devolución de sus cementerios, que se tomaran medidas para detener la erosión del suelo y la protección de los sitios sagrados, la restauración de los derechos tradicionales de paso a través de las granjas, el pago de los daños ocasionados a las familias desalojadas, daños generales y beneficios *mesne* de Tsh. 100.000.000/- (actualmente sólo US$125.000, pero casi un millón de dólares cuando la demanda fue presentada).

En su sentencia, el juez decretó que antes que la tierra fuera enajenada pertenecía a la comunidad barabaig, y como dueños de la tierra habían sido ilegalmente despojados por NAFCO porque los requisitos para adquirir tierra aplicables al título consuetudinario según lo establecido en la Ley de Adquisición de Tierras de 1967, no se habían cumplido. Opinaba que «un derecho considerado de ocupación (título consuetudinario) es tan bueno como un derecho otorgado de ocupación (título de arrendamiento)» lo cual establece un importante precedente para todos los detentadores de derechos consuetudinarios en Tanzania.

Sin embargo, la victoria fue limitada por un detalle procesal. A pesar de haberse otorgado permiso para una demanda representativa según el Código de Procedimiento Civil, los abogados de los Demandantes fueron acusados de no haber cumplido con la Orden 1, norma 8, sub-norma (1) de emitir un comunicado público a todas las partes interesadas en la demanda. Si bien se publicó un anuncio público en los principales periódicos nacionales, el juez sentenció que no fue dirigido a «todas las personas interesadas», y debía haber incluido una lista de todos los 788 nombres que estaban vinculados a la demanda. Además, se encontró que la lista presentada al tribunal incluía a personas de áreas distintas de Gawal, y algunos nombres estaban repetidos. El juez decidió, por lo tanto, que la demanda no podía sostenerse, y limitó su sentencia a los seis Demandantes que se presentaron ante el tribunal.

De acuerdo al juez, los Demandantes habían «sufrido daños y pérdidas como resultado de la intrusión de los acusados», y tenían derecho por lo tanto a indemnización. En lo referente a si los Demandantes deberían recuperar la tierra demandada, el juez sentenció que como la misma sólo representaba 300 acres en total, su devolución resultaría en pequeñas parcelas de tierra privada dentro de la granja, y como resultaría difícil otorgar acceso al ganado para ir y venir, no ordenó la devolución de la tierra, sino que optó por una compensación monetaria solamente.

En base a la presentación de cada Demandante, sentenció que las pérdidas monetarias y de ganado específicas no habían sido probadas según los requerimientos normales y por lo tanto desestimó su demanda. Sin embargo, aceptó que tres de los Demandantes tenían derecho a perjuicios generales relativos al tamaño de las familias y el costo del reasentamiento. Esto sumaba Tsh.500.000, Tsh.100.000, y Tsh.-50.000/- respectivamente. Además le otorgó Tsh.10.000 al primer Demandante como compensación por la destrucción por parte de NAFCO de la tumba de su abuelo.

Estas sumas son extremadamente ínfimas, dada la escala de las pérdidas y las penalidades sufridas por los barabaig derivadas de la negación del acceso a un área tan grande de tierras fértiles. Según el actual valor de la moneda de aproximadamente 800 chelines tanzanianos por libra, la suma mayor de Tsh.500.000 suma unos US$1.000 y la más baja, Tsh.10.000, sólo US$20. Aunque estas sumas son muy pequeñas y la escala de los beneficios tangibles para los barabaig que resultaron del caso pueden parecer insignificantes, debe recordarse que se ha obtenido un importante precedente legal que debería permitir a los pastores de Tanzania lograr una seguridad mayor de la propiedad de sus tierras comunales, de las cuales dependen para su subsistencia.

Se conjetura que el juez aprovechó la oportunidad de fundamentar su sentencia en un punto procesal para evitar una sentencia que pusiera al gobierno en serios problemas y requiriera la devolución a los barabaig de las tierras de cultivo de Gawal. Un daño similar para el gobierno fue evitado en el caso Mulbadaw cuando el juez basó el caso en la cuestión de la nacionalidad. Quizás sea demasiado esperar una victoria total en estas circunstancias, y quizás sea suficiente que se haya establecido un precedente legal, dando reconocimiento a los derechos consuetudinarios a la tierra. Sin embargo, todavía queda una importante batalla para asegurar que estos derechos sean defendibles contra la continua usurpación arbitraria.

La primera acción tomada por los abogados cuando se enteraron de la sentencia fue solicitar permiso de apelación. Aunque en el momento de escribir ésto la fundamentación de la apelación todavía tiene que ser formalmente formulada, se entiende que se refiere a los siguientes puntos:

i) Habiendo juzgado que NAFCO es intrusa, el juez se equivocó al no revocar el otorgamiento del título a la granja y devolver la tierra a los barabaig. Al no hacerlo estaba de hecho legalizando la usurpación de NAFCO.

ii) El juez no vio la esencia de la Demanda como una demanda de derechos consuetudinarios, y al reducir la cuestión a propiedad mesurable, ignoraba la realidad de la tenencia de las tierras de pasturas en la cual una comunidad tiene derechos a los recursos en común.

iii) Como los perjuicios demandados no eran específicos, el tribunal se debe haber confundido exigiendo una lista de aquellos (788 personas vinculadas a la Demanda) a ser representados, y se debería haber otorgado además perjuicios generales a toda la comunidad ya que las pérdidas no fueron sustentadas por un individuo, sino que se refieren a los medios por los cuales una comunidad puede sobrevivir y lograr que su cultura persista.

iv) Si bien el juez fue correcto en su sentencia, la suma de los perjuicios fue patéticamente pequeña ya que no reflejan el valor real de las pérdidas de los Demandantes.

El estado contraataca

Durante los procedimientos jurídicos el gobierno hizo un intento de socavar el caso y evitar ser forzado a devolver las granjas a los barabaig (Lane 1994). El gobierno ejerció su autoridad ejecutiva tratando de extinguir las reivindicaciones consuetudinarias de los barabaig a las tierras en disputa. Esto fue hecho mediante la emisión de una enmienda al Comunicado Gubernamental 659 (Ordenanza de Extinción de los Derechos Consuetudinarios a la Tierra de 1987), extendiendo la extinción hasta incluir a aquellas aldeas afectadas por las granjas de NAFCO. Para cubrir el caso barabaig se la hizo retroactiva a la fecha del Comunicado Gubernamental (No. 88 del 13/2/1987), anticipando la presentación de la demanda

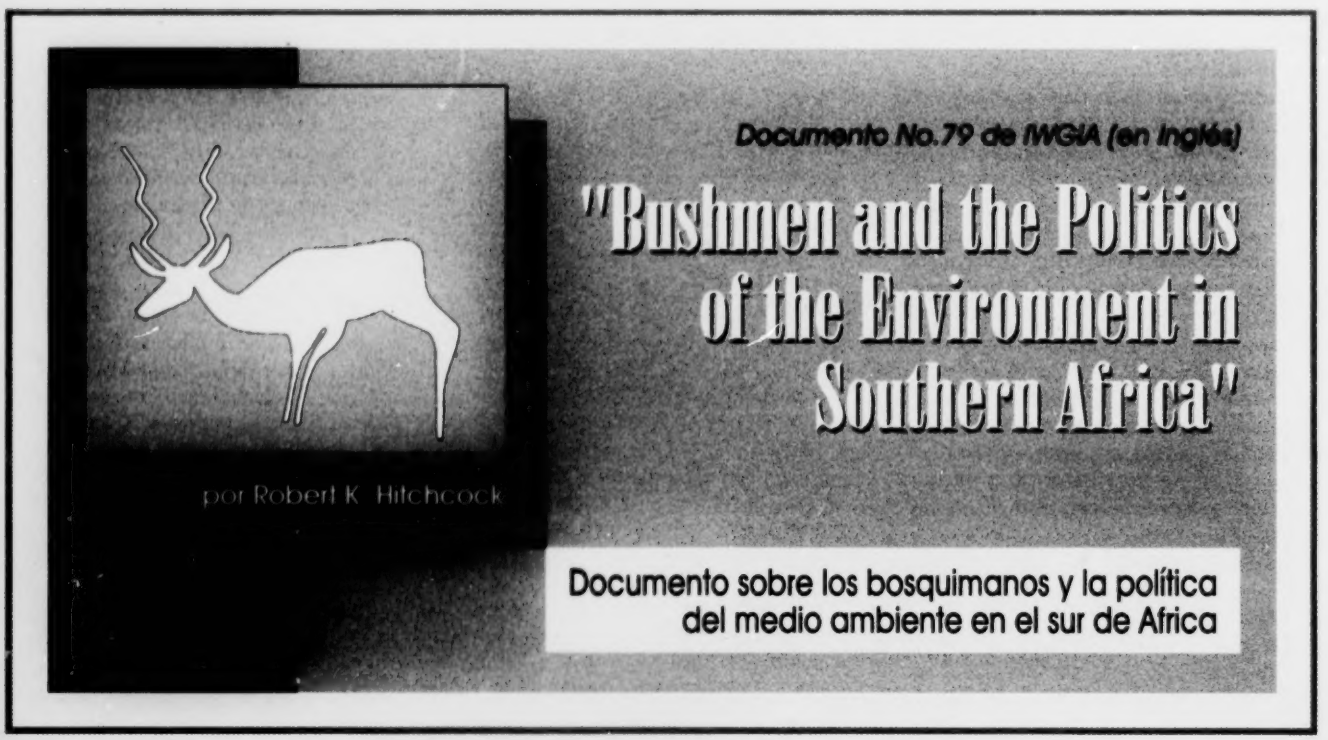
barabaig. Esto otorgó a NAFCO la oportunidad de declarar «ningún caso para responder» ya que los Demandantes no habrían tenido derechos para declarar. Sin embargo, el juez sentenció que el Comunicado Gubernamental no era aplicable ya que NAFCO había adquirido Certificados de Ocupación para la tierra en disputa en una fecha anterior a la intentada extinción.

Los Comunicados Gubernamentales fueron incluidos en la Ley de Tierras Rurales (Planificación y Utilización) de 1973 que autoriza al presidente a declarar un «área específica» objeto de «extinción, cancelación o modificación» de derechos considerados de ocupación (título consuetudinario) por parte del ministro de tierras. Sin embargo, no existe ninguna evidencia de que el área en cuestión fuera alguna vez «especificada», ni que el primer ministro pueda ser considerado como el ministro responsable de las tierras según la intención de la Ley. De acuerdo a Tenga (1992), la misma Ley podría ser recusada por estar en contradicción con le Ley de Derechos, la cual es ahora parte de la Constitución. Shivji (1994) sugiere además que los Comunicados son contrarios a las previsiones de la Ley de 1973 y la Ordenanza de Tierras de 1923 que reconocen los derechos consuetudinarios a la tierra.

Con una mayor liberalización política en Tanzania, un sistema democrático multipartidario y una prensa libre, no es sorprendente que los detentadores de tierras, cuyos derechos consuetudinarios han sido violados por la apropiación estatal, hayan comenzado a acusar al gobierno frente a la justicia. Las indicaciones de casos anteriores señalan que los tribunales juzgarán a favor de los detentadores de títulos consuetudinarios (Tanzania 1994). En respuesta a esta perspectiva, y al fracaso de los Comunicados Gubernamentales, el estado ha dado un paso extraordinario para minar esta amenaza.

La perspectiva de que los tribunales fuercen al gobierno a deshacer la estructura de la nueva tenencia de la tierra aldeana ha provocado que se tomara una medida muy radical. Se estableció un instrumento legislativo bastante extraordinario, apuntando a la extinción de todos los derechos consuetudinarios a la tierra en todas las aldeas del país incorporadas entre 1970 y 1978 (Reglamentación de la Tenencia de la Tierra [Aldeas Establecidas], Ley 22 de 1992). Esta Ley extingue los derechos consuetudinarios a la tierra, prohíbe el pago de indemnización por tal extinción, quita la jurisdicción de los tribunales, termina los procedimientos pendientes en las cortes, y prohíbe la implementación de cualquier decisión de corte o decreto concerniente a asuntos respecto a los cuales la jurisdicción fue suprimida.

La oportunidad de la Ley brinda evidencia de la actitud de rechazo del gobierno en relación a los derechos consuetudinarios y la opinión legal calificada. Fue presentada al Bunge (parlamento) pocos días antes de que el Informe de la Comisión Presidencial Investigadora sobre Asuntos Rurales fuera presentado al presidente. Es improbable que sea una coincidencia que una legislación que realiza cambios fundamentales a la ley rural fuera presentada antes que un informe de la Comisión cuya tarea era considerar tales asuntos y realizar recomendaciones al presidente. La lógica



sugeriría que en condiciones normales, las conclusiones de la Comisión deberían asesorar a una nueva legislación.

La razón de esta incoherencia podría residir en la disparidad de puntos de vista que fundamentan los dos documentos. Es probable que aquellos que querían continuar capitalizando el caos ya creado por los procesos de aldeanización, titulación y uso de la tierra para adquirir tierras consuetudinarias con propósitos comerciales, quisieran impedir las recomendaciones de la Comisión que incluyen el reconocimiento de los derechos consuetudinarios a la tierra, la participación de los líderes tradicionales en el registro de títulos, y la abolición de previsiones legales y administrativas existentes que tratan a los derechos consuetudinarios como inferiores a los derechos reglamentarios de ocupación.

Afortunadamente para los barabaig, en el caso *Hon. Ministro de Justicia vs. Akonaay y Lohay*, los jueces sentenciaron que la Ley 22 estaba en contravención de la Constitución (Apelación Civil No. 31 de 1994) por dos importante razones: los derechos consuetudinarios a la tierra eran considerados como una propiedad real según el Artículo 24 de la Constitución, y como tales protegidos contra su anulación sin una justa compensación según el inciso (2); y según la doctrina de la Separación de Poderes consagrada en el Artículo 4 de la Constitución, la autoridad de los tribunales no puede ser denegada. Sin embargo, los jueces de la Corte de Apelaciones no sentenciaron que todas las previsiones de la Ley 22 eran nulas e inaplicables, dejando un código sin aquellas secciones que juzgaron ilegales. Queda por verse cómo reaccionará el gobierno a esta sentencia. Las opciones son pocas; puede dejar esta Ley sin las previsiones que aseguren el logro de su propósito original, rechazarla, o tratar de enmendarla dentro de las limitaciones de la sentencia. En el contexto de las actuales deliberaciones en torno a la formulación de una nueva Política Nacional de Tierras es probable que una nueva Ley Básica de Tierras sea elaborada de tal manera que se amolde a los objetivos políticos y también racionalice las numerosas leyes rurales existentes, a veces contradictorias.

Campaña internacional

A pesar de las limitaciones a las medidas legales y los esfuerzos del gobierno para frustrar las reivindicaciones de tierras barabaig, han habido algunos resultados positivos y una serie de importantes iniciativas han surgido del proceso de cuestionamiento del gobierno en este caso.

Los barabaig decidieron conducir una campaña internacional en defensa de sus derechos. Esto resultó en una abundancia de material impreso y una respuesta del gobierno tanzaniano en términos de inversiones en la esfera del bienestar social (escuelas, provisión de aguadas domésticas, etc.). Algunas de las principales características de la campaña fueron:

(i)Publicación de una «Carta abierta al pueblo canadiense» en publicaciones canadienses (ver Paavo 1989, Lane 991).

Carta abierta al pueblo canadiense, 15 de febrero de 1989

Nosotros, los barabaig de Tanzania, somos un pueblo pobre y problematizado. Somos una minoría pastora dependiente de nuestro ganado para la supervivencia. Todos los días tenemos que esforzarnos para mantener a nuestros rebaños y garantizar un mejor futuro para nosotros y nuestros hijos. Somos poco numerosos y vivimos en comunidades diseminadas. Disponemos de muy poco poder político. Hemos luchado solos contra grandes fuerzas durante muchos años. Pocas personas comprenden nuestra desgracia o están dispuestos a ayudarnos. Nuestros problemas son grandes. No hemos logrado superarlos. Les pedimos su ayuda.

Vivimos en contacto con la tierra. Es una tierra árida en la cual las sequías son algo común. Muchos de nuestros niños sufren privaciones y mueren por falta de una mejor atención sanitaria. Nuestro ganado muere también a causa de la falta de servicios veterinarios. Nuestras mujeres caminan muchas millas en busca de agua. Muelen el maíz a mano, usando piedras. Muchos de nosotros son analfabetos. Pocas personas nos visitan para escuchar nuestros problemas y atender nuestras necesidades. Algunos de nuestros líderes han tratado de ayudarnos. Sin embargo, no se hace lo suficiente para apoyar nuestro desarrollo en comparación con otros tanzanianos.

Hemos vivido tradicionalmente en las llanuras que rodean al Monte Hanang en el Distrito de Hanang, en la Región de Arusha. Lo hemos hecho durante más de cien años. Aquí construimos nuestros hogares, pacemos nuestro ganado, cultivamos nuestras parcelas, y vivimos nuestras vidas. En tiempos coloniales teníamos nuestra propia Autoridad Nativa Barabaig y nuestros Jefe. Durante ese tiempo limpiamos la tierra para controlar la mosca tsetsé. Hoy quemamos las pasturas para controlar la garrapata y mejorar los pastos. Algunas tierras son sagradas. Nuestros queridos ancestros están enterrados aquí en tumbas que han sido cuidadas yvisitadas durante generaciones. Valoramos y respetamos la tierra. Queremos preservarla para siempre.

Nuestros rebaños necesitan forraje, agua y sal. Nuestra tierra tiene todas esas cosas. Sin ellas no podemos sobrevivir. Desde que tenemos memoria nuestra tierra nos ha sido usurpada. Afluye siempre gente para cultivar nuestras pasturas. Se apoderan de la mejor tierra, de la cual dependemos para mantener a nuestros rebaños. La pérdida de esta tierra ha resultado en una drástica reducción de nuestro ganado y una disminución de la producción que nos causa grandes sufrimientos. Si nuestra tierra sigue siendo usurpada, tendremos que irnos o perecer. Las opciones de supervivencia son pocas; o bien aceptamos los riesgos y las dificultades de la emigración o nos pauperizaremos en los pueblos.

Las mayores extensiones de tierras que nos han sido usurpadas son destinadas al cultivo. El gobierno se ha apropiado de más de 100.000 acres para un proyecto triguero. La decisión de apropiarse de esta tierra fue tomada por líderes no-barabaig. La aprobación oficial fue otorgada sin nuestro consentimiento. Se nos comunicó simplemente que el proyecto necesitaba la tierra y que tendríamos que irnos. No hemos sido indemnizados por la pérdida de esta tierra. A algunos de nosotros se nos pagó algo, pero sólo por la pérdida de la vivienda, lo cual fue ofrecido demasiado tarde, a demasiadas pocas personas. Hasta la fecha no se ha tomado ninguna previsión efectiva para que los desposeídos puedan vivir en otro lado.

Canadá, a través de su programa de ayuda (CIDA) está involucrado en el Proyecto Triguero Tanzania-Canadá desde hace 20 años. Durante ese lapso la ayuda canadiense junto con la Corporación Nacional para la Agri-

cultura y la Alimentación de Tanzania (NAFCO) han establecido un vasto complejo triguero en las llanuras de Hanang. El plan original era cultivar siete granjas de 10.000 acres cada una, totalizando unos 70.000 acres. Esta es el área que se nos ordenó abandonar. Ahora descubrimos que NAFCO ha obtenido títulos a más de 100.000 acres, 30.000 más de lo que se nos comunicó. Estas eran tierras de pasturas de primera calidad. No podemos darnos el lujo de perder un área de pasturas tan grande.

El cultivo de trigo en lo que antes eran pasturas está destruyendo el medio ambiente. Al eliminar la vegetación a causa del cultivo mecanizado, el suelo queda desprotegido y es erosionado por el agua, creando profundos barrancos, enfangando las fuentes de agua y nuestro sagrado Lago Basotu. El área de tierra que nos quedó es generalmente menos fértil y demasiado pequeña para nuestras necesidades. Se está erosionando por el exceso de pastoreo. La vegetación ha cambiado, haciendo que las pasturas sean menos productivas que antes.

A la implementación del proyecto se suman amplias violaciones de los derechos humanos. En ocasión de desalojarnos, NAFCO algunas veces ha quemado nuestras casas sin advertencia. De esta manera algunas personas han perdido todas sus posesiones, incluyendo sus reservas de alimentos. Otras veces han arado alrededor de las viviendas, tornando imposible nuestra libre entrada y salida. Cuando tratamos de llegar a las pasturas, al agua o a la sal a través de las rutas tradicionales a través de las granjas se nos considera intrusos y nos vemos sometidos a golpizas y multas. Nos es difícil resistir este hostigamiento ya que NAFCO llama a la policía y a la milicia para imponernos su voluntad. Muchas de las tumbas de nuestros ancestros han sido aradas y ya no son reconocibles. Estos sitios sagrados son muy importantes para nosotros como lugares de culto. Allí es donde hacemos nuestras ofrendas y pedimos la bendición de Dios usando a nuestros ancestros como medios. Esta profanación se compara a la deliberada destrucción de una iglesia y de un cementerio de una comunidad cristiana en Canadá.

En el pasado hemos solicitado la ayuda de nuestros líderes nacionales sin éxito. Hemos solicitado ayuda al personal canadiense del proyecto y a la Alta Comisión Canadiense en Dar el Salaam. A pesar de su expresa preocupación, poco ha cambiado para mejor. En realidad, la situación ha empeorado. Sigue el cultivo de las tierras en disputa y continúan las golpizas y las multas. Algunos de los derechos de paso que quedaban abiertos han sido ahora cerrados completamente. Recientemente, NAFCO ha comenzado a obtener Certificados de Títulos de las granjas, los cuales excluyen las dos condiciones vitales de derechos de paso y preservación de tumbas.

En 1984 la aldea de Mulbadau se opuso a la usurpación de nuestras tierras por NAFCO. El caso tuvo éxito en la Suprema Corte, pero fue rechazado en apelación. Se sentenció que la aldea no tenía título de propiedad sobre la tierra en el momento en que le fue usurpada. Las reivindicaciones individuales de derechos consuetudinarios de posesión de la tierra, tal como es reconocido por la ley, fueron también negadas a aquellos pocos demandantes que testimoniaron frente al tribunal ya que eran de origen somalí y por lo tanto no eran clasificados como «nativos» con derecho a la posesión de tierras en Tanzania.

A causa de las continuas violaciones de nuestros derechos, y del hecho de que la más amplia cuestión de si tenemos título consuetudinario a la tierra que ocupábamos todavía no está resuelta, hemos decidido volver a presentarnos ante la justicia. Sostenemos que NAFCO no se ha ajustado al proceso debido según la ley para la adquisición de esta tierra y por lo tanto es intrusa en los 30.000 acres extras. Exigimos plena compensación por la pérdida de la tierra, la destrucción de nuestros hogares y la profanación de las tumbas. Queremos la restauración de los derechos tradicionales de paso que nos permitirán llegar a las pasturas, el agua y la sal como antes. Queremos establecer definitivamente que las comunidades pastoras indígenas tienen derechos consuetudinarios a la tierra que ocupan, de tal manera que su futura subsistencia pueda ser protegida por la ley agraria.

La ayuda canadiense es tan valorada por nosotros como por los otros tanzanianos. No nos oponemos a su participación en el desarrollo del país. En realidad estaríamos dispuestos a dar la bienvenida a su continua ayuda para el desarrollo del Distrito de Hanang. Nuestros problemas están relacionados con el proyecto y su impacto sobre nuestras vidas y nuestra tierra. Mediante esta carta queremos informarles qué es lo que se está haciendo actualmente con su ayuda. Pueden apreciar cómo han sido parte de los males infligidos a nosotros. Al contar con este conocimiento esperamos que estén dispuestos a usar los medios necesarios a su alcance para resolver el conflicto en nombre de la justicia.

Desearíamos también que consideraran cómo los males infligidos a nosotros pueden ser reparados. Queremos recuperar nuestra tierra. Queremos que se respeten nuestros derechos consuetudinarios. No queremos que se siga destruyendo la tierra. Deseamos una plena e imparcial investigación de las violaciones de los derechos humanos y que aquellos que sean juzgados culpables de crímenes sean castigados. Es nuestra esperanza que ustedes se vean motivados a brindar mejores facilidades para los seres humanos y el ganado, y una infraestructura y servicios básicos, lo cual sería muy importante para superar el subdesarrollo que hemos sufrido. Esto no es una solicitud de algunos proyectos simbólicos, sino un alegato por un plan de desarrollo comprehensivo del distrito. Queremos tener la oportunidad de participar en nuestro propio desarrollo. De esta manera los pastores pueden obtener tantos beneficios como los agricultores. Sin la ayuda de ustedes y de otros estamos destinados a seguir siendo un pueblo pobre y vejado, sin futuro.

Ustedes son una nación rica y poderosa. Tienen los medios para solucionar nuestros problemas. Su ayuda ha ayudado a otros, aquí y en el extranjero. Ustedes viven lejos de nosotros y conocen poco nuestros problemas en Tanzania. Esperamos que esta carta los haga más conscientes de lo que nos está sucediendo. Por favor, súmense a nosotros en nuestra lucha. Sin una respuesta efectiva y positiva de ustedes nuestra causa puede estar perdida. Por eso apelamos a ustedes ahora. Nuestro grito por su ayuda es nuestro último recurso.

Firmado:
Gwauda Gidabayokt
Bada Lugod

Ako Gembul
Ng'ayda Baha
En nombre de los barabaig
Distrito de Hanang, Región de Arusha,
Tanzania

(ii) Producción de materiales de información pública por las organizaciones de derechos humanos.

(iii) Publicación de una serie de trabajos basados en la investigación con los barabaig que han informado la campaña (ver Lane 1994).

(iv) El caso barabaig fue uno de los cuatro casos que obtuvieron una atención especial por parte de la Comisión Presidencial Investigadora sobre Asuntos de Tierras. Una presentación, «El caso barabaig: implicaciones para la política rural en áreas pastoras de Tanzania», del autor, simpatizaba con las recomendaciones de la Comisión de ajustar *inter alia* los intereses de los pastores mediante el reconocimiento de derechos consuetudinarios a la tierra en un sistema de tenencia múltiple de la tierra, afirmación de que la tierra pertenece a la comunidad, y un cambio de autoridad sobre la tierra del presidente a las asambleas aldeanas, y la necesidad de brindar más transparencia y responsabilidad a la administración de tierras.

(v) Recién en 1994 el primer ministro sucumbió frente a la presión internacional y nombró una Comisión sobre las Violaciones de Derechos Humanos en las Granjas Trigueras de NAFCO, Distrito de Hanang. El autor, líderes barabaig y simpatizantes fueron llamados para hacer informes escritos. Aunque el informe de la Comisión nunca fue hecho público, se informa fehacientemente que confirma la veracidad de muchos alegatos, y hace una serie de recomendaciones coincidentes con los informes pro-barabaig.

(vi) En marzo de 1994 un informe formal siguiendo a la Resolución 1503 de las Naciones Unidas (XLVIII) del Consejo Económico y Social, fue presentado por los ancianos barabaig y por altos representantes comunitarios a la Comisión de Derechos Humanos bajo la Subcomisión para la Prevención de la Discriminación y la Protección de las Minorías. El gobierno tanzaniano está ahora obligado a responder por sus acciones en relación a los agravios a los barabaig, y se ha convertido en algo bastante pertinente a partir de la apelación al fallo de la Suprema Corte.

La lucha por derechos a la tierra ha puesto a los barabaig en contacto con mucha gente y organizaciones que hasta entonces les eran desconocidos. Inicialmente, se tomó contacto con miembros de la comunidad investigadora y abogados. Se recibió apoyo de muchas fuentes y organizaciones que *trabajan con grupos indígenas en cuestiones* relacionados con los derechos y la justicia (p. ej., Human Rights Watch/Africa, Food-first Information and Action Network (FIAN), el Grupo Internacional de Trabajo sobre Asuntos Indígenas (IWGIA), Probe International, Supervivencia Internacional).

Organización indígena

Desde el comienzo, los casos relativos a la tierra fueron conducidos con el acuerdo y la participación de toda la comunidad barabaig del Distrito de Hanang. Se otorgó atención a garantizar que la comunidad deseara contribuir con algunos de los costos y tomara la responsabilidad de los resultados de la campaña. Esta experiencia ha galvanizado a la comunidad y se ha constituido en una organización de base comunitaria formalmente registrada, *Bulgalda*. Tiene un mandato para continuar las campañas para la protección de los derechos barabaig, y ha desarrollado una agenda de desarrollo más amplia.

Como ONG indígena pastora y registrada, *Bulgalda* se ha unido a organizaciones similares en una coalición de Organizaciones No-Gubernamentales Indígenas Pastoras (PINGOs). Esto les ha permitido representar a una base social más amplia, hablar con mayor autoridad sobre asuntos comunes, utilizar recursos económicos a mayor escala, atraer más fácilmente el apoyo de donantes, y brindar una buena base para el trabajo de «lobby».

Hasta hace poco, los barabaig habían adoptado un enfoque confrontativo al problema de la enajenación de la tierra. No sorprendentemente, el cuestionar al gobierno en los tribunales ha sido percibido como una amenaza por las autoridades y se han tomado algunas medidas extraordinarias contra ellos. Si bien la confrontación ha tenido algunos efectos beneficiosos, no todos han sido buenos. El oficialismo antagónico ha resultado a veces en maniobras por parte del gobierno para ocultar errores, el establecimiento de restricciones al registro y operación de ONG, el ocultamiento de información, hostigamiento y cooptación de activistas. Para evitar tales reveses *Bulgalda* se unió a otras ONG en PINGOs para desarrollar estrategias más sofisticadas que combinan la confrontación con enfoques más conciliatorios como el trabajo de «lobby» y la construcción de una base para el diálogo con todas las partes en disputa (Bradbury, Fisher & Lane 1995).

Bulgalda se ha unido también con otras ONG pastoras en un *Grupo Pastor* para *tratar de influir sobre la formulación de la* política de tierras y lograr una mayor seguridad de la tenencia de la tierra. Esto ha resultado en la preparación de una lista de recomendaciones que ha sido enviada al ministro de tierras, el trabajo de «lobby» con miembros parlamentarios y la movilización de otros grupos comunitarios para desarrollar sus propios planes de acción.

La comunidad barabaig ha desarrollado una mayor confianza a partir del éxito de llevar al gobierno frente a la justicia. Los beneficios a largo plazo no pueden ser medidos fácilmente. Sin embargo, es claro que han comprendido que tiene derechos que son implementables por la ley, que son libres de usar las estructuras nacionales existentes para encarar sus intereses, que tienen aliados en el país y en el extranjero que están interesados en ayudarlos, y que existen ventajas en la participación más plena en la sociedad nacional.

Con esta manera de participar más plenamente en el mundo más amplio de los asuntos nacionales e internacionales y de hacer uso de instituciones, gente, y recursos, los barabaig han sido capaces de convertir la adversidad de la desposesión en la ventaja de convertirse en ciudadanos más participatorios del estado nacional tanzaniano y miembros de una comunidad mundial. Al relacionarse con otros que comparten sus dificultades han podido integrarse a un movimiento internacional en busca de justicia para los pueblos indígenas que están luchando para afirmar exitosamente sus derechos a las tierras consuetudinarias.

Notas

1) Este artículo fue presentado por primera vez como trabajo en el Simposio sobre la Crisis Africana de Tierra durante una reunión de la Asociación Canadiense de Estudios Africanos, 1-5 de mayo en la Universidad McGill, Montreal.

2) *Yoke Gwako y 5 Otros v. Granja NAFCO & Gawal* - Caso Civil No. 52 de 1988, y *Ako Gembul & 10 Otros v. Granjas Trigueras NAFCO & Waret y Gidagawmod* - Caso Civil No. 12 de 1989.

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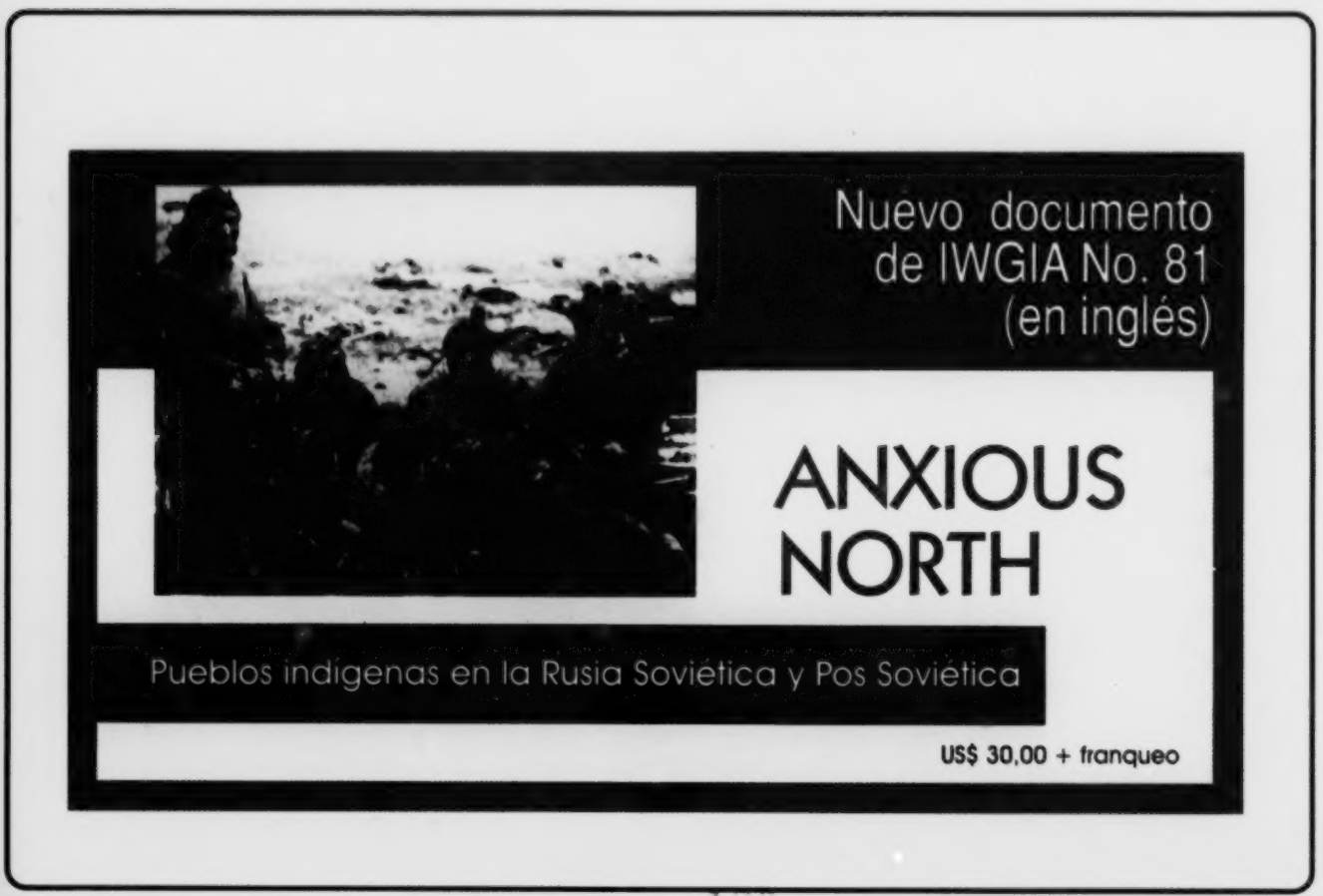

NOTICIAS BREVES NOTICIAS BREVES

Los abajo firmantes jefes de las comunidades del pueblo *Achuar*, queremos expresar a las autoridades de nuestro gobierno y a todos los demás ciudadanos del Perú, que los pueblos indígenas Achuar decimos NO a la actividad de exploración y explotación de petróleo en nuestra zona, en el lote 54 y 64 ubicados en el distrito de Pastaza, provincia del Alto Amazonas, Región Loreto.

En nuestro territorio vivimos en paz gracias a nuestro respeto por la naturaleza, nuestros hijos necesitan una tierra sana para vivir y nosotros estamos obligados a dejarla aunque sea con mucho sacrificio.

Conocemos y hemos visto con nuestros ojos el destino que han tenido otros pueblos hermanos después que han tenido la explotación petrolera por sus tierras, como es el caso del Río Napo, el Río Tigre y el Río Corrientes.

Nuestro objetivo es la lucha por la vida, por el derecho, por la justicia, no queremos que contaminen nuestro suelo, el aire, los ríos, los productos que nos alimentan diariamente y especialmente nuestra vigencia actual y futura. No queremos perder nuestra identidad como pueblo Achuar, ni que nuestros hijos pierdan nuestras costumbres.

Por lo tanto pedimos a las autoridades del gobierno que se suspenda el proyecto de la actividad exploratoria del petróleo en los lotes 54, 64 y que velen por la seguridad de las comunidades indígenas Achuar.

Para la constancia de lo expuesto y con firme decisión de hacer respetar nuestros derechos, integridad cultural, social, ambiental y territorial, firmamos a continuación autoridades concientes de nuestro deber moral y que estamos ejerciendo nuestros derechos como parte del pueblo Peruano en beneficio de las actuales y futuras generaciones.

Los suscritos representantes de todas nuestras comunidades Achuar, con su directorio teniendo el derecho concedido por el Estado Peruano, al cual pertenecemos, de defender nuestro territorio cuya titulación ha sido concedida por el Ministerio de Agricultura de la región de Loreto, y teniendo el derecho al respeto de todas nuestras comunidades: rechazar totalmente la exploración del petróleo por la compañía Arco y toda otra compañía que quisiera explotar el petróleo, en todo nuestro territorio del lote 64.

Nuestro objetivo y lucha es por la vida, por el derecho, por la justicia, no queremos que contaminen nuestro suelo, el aire, los ríos, los productos que nos alimentan diariamente y específicamente nuestra vida actual y futura.

Para constancia de lo expuesto y ratificando nuestra firme decisión de hacer respetar nuestros derechos, integridad cultural, social, ambiental y territorial, a continuación los dirigentes y jefes de las comunidades concientes de nuestro deber moral y ejercer nuestros derechos como pueblos en beneficio de las actuales y futuras generaciones.

Wisum, 10 de Diciembre de 1996.

Taish W.Kuji Nawir Samiruk Kachu Kantserkap
Pres.org.Ati
Vice-Pres. Org.Ati
L.E. Nro. 05632855 L.E.Nro. 05632801

F. Antonio Fachin Tapayuri
Sec.org.Ati
L.E. Nro. 05627591

Nota

Sobre los lotes en mención:

Lote 54

El lote 54 es una extensión de 850 mil 342 hectáreas, ubicado en la cuenca de los ríos Pastaza y Huasaga, ambos ubicados en el distrito de Pastaza, provincias de alto Amazonas, departamento y región Loreto, entregados en concesión a la empresa Argentina PLUSPETROL S.A Sucursal del Perú y Norteamérica OCCIDENTAL PETROLERA DEL PERÚ INC. Sucursal del Perú, (OXY).

El contrato para la exploración y explotación, firmado en agosto de 1995, incluye tierras indígenas Quichua, Organizados en la FEDERACIÓN INDIGENA QUICHUA DEL PASTAZA, (FEDEQUEP) y parte del territorio indígena del pueblo Achuar, representado por la organización ORGANIZACIÓN ACHUAR CHAYAT, (ORACH).

La FEDIQUEP, tiene su sede en la comunidad Alianza Cristiana, sus bases son 10 comunidades del Pueblo Quechua del Pastaza, creada en 1992, tiene como sus principales objetivos la promoción del desarrollo y valores de su pueblo, el mejoramiento de la infraestructura social y productiva de las comunidades, y la capacitación.

Lote 64:

El lote 64, se ubica en la cuenca hidrocarburífera del Marañón, con una extensión de 953 mil 790 hectáreas, en las circunscripciones del Distrito Pastaza, provincia Alto Amazonas, departamento Loreto, entregada en concesión a la Empresa ATLANTIC RICHFIELD (ARCO) Y OCCIDENTAL PETROLEUM CO., ambas de nacionalidad norteamericana.

Este lote se encuentra contiguo al lote 54, e igualmente las actividades petroleras involucran casi la totalidad del territorio del

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pueblo indígena ACHUAR, organizados en dos organizaciones: la ORGANIZACIÓN ACHUAR CHAYAT, (ORACH) y la organización ACHUARTI IJUNDRAMU, (ATI).

Pedimos a todos los interesados en proteger la causa de los Derechos de los Pueblos Indígenas escribir a las oficinas de la empresas petroleras, instituciones y autoridades del estado Peruano para que escuchen el justo reclamo del Pueblo ACHUAR.

Compañía Arco:
Oficina Central: 515 South Flower Street, Los Angeles, California 90071-2256, EE.UU. Teléfono: (213)486 3511, Télex: 677415. Fax: (213)486 2063. - Directores: M.R Bowin (Presidente y Director Ejecutivo), R.J. Armault (Jefe Financiero), A.J Fernández, W.E. Wader Jr. (Vicepresidentes Ejecutivos); F.D Boren, L.M Cook, R.H. Deihl, J. Gavin, H.H. Gray, P.M. Hawley, K. Krese, D.T. McLaughlin, J.B. Slaugter, H.B. Waldron, H. Wendt.

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Oficina Central: 10889 Wilshire Boulevard, Los Angeles, California 90024-4201, EE. UU. Teléfono: (310)208-8800. Télex: 67-3389, Cable: Oxpete LSA. - Directores: R.R Irani (Presidente del Consejo y Director Ejecutivo), J.R. Hirl (Presidente y Director Ejecutivo Occidental Chemical Corp), D.R. Laurance (Senior Operador), J.F Riordan (Presidente y Director Ejecutivo, Midcon Corp) (Vice Presidentes Ejecutivos); A. Gore Sr. A. Gronam, R. Segovia, J.W Kluge, W. Maloney, L. Nizer, G.O. Nolley, A.D. Syriani, R. Tomich.
En el Perú:
Occidental Peruana Inc. Los Nardos 1018, San Isidro. Tel. 442-8110

Compañía Pluspetrol:
Oficina Central: Pluspetrol Building, La Rioja 301, 1214 Buenos Aires, Argentina. Teléfono: (541)935011-19. Télex: 22371. Fax: (541)972301. - Directores: L.A Rey (Presidente y Director Ejecutivo), A.J. Selesco (Vicepresidente). O.H. Secco (Director General y Jefe de Operaciones), H.P. Poli, O.M Setuain.

Defensoría del Pueblo:
Dr. Jorge Santisteban Jr., Ucayali No. 388, Lima 1, Perú. Casilla Postal 3906 Lima 10. Fax: (511) 426-7889. ❑

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Los líderes indígenas y *maroon* de Surinam han celebrado, del 20 al 22 de noviembre de 1996, su segundo Gran Krutu en la comunidad indígena de Galibi. El primer Gran Krutu fue celebrado en agosto de 1995 en la comunidad maroon de Asindon-Opo. Los objetivos principales de Gran Krutu fueron fortalecer la cooperación y la unidad entre los pueblos indígenas y Maroon, expresar su oposición a la política de gobierno de Surinam sobre el otorgamiento de concesiones en sus territorios ancestrales a compañías mineras y madereras transnacionales y demandar que sus derechos al control y propiedad de sus áreas y territorios sean reconocidos por la legislación de Surinam, en acordancia con las normas internacionales de derechos humanos. Al segundo Gran Krutu asistieron, además de los delegados de Surinam, un representante de la Asociación de Pueblos Amerindios de Guayana y representantes de una coalición de organizaciones de la Guayana Francesa.

Los participantes reafirmaron, al comienzo de la reunión, las conclusiones y resultados del primer Gran Krutu y sostuvieron su derecho fundamental a la autodeterminación. Declararon que no desean una secesión del Surinam pero que sus derechos a la autonomía y la autogestión deben ser respetados y reconocidos en la constitución de Surinam.

El reconocimiento legal de los derechos territoriales fue el tema más discutido. Surinam, en contraposición al resto de los estados del hemisferio occidental, no reconoce la legalidad de los derechos territoriales o de otro tipo de los pueblos indígenas y maroon.

Fue señalado que el gobierno de Surinam contraviene los tratados internacionales sobre derechos humanos por el ratificados al no aceptar que los derechos territoriales de los pueblos indígenas o tribales son derechos humanos internacionalmente reconocidos, fundamentales para su sobrevivencia como pueblos culturalmente diferenciados.

Los líderes indígenas y maroon pusieron en claro que esta falta de reconocimiento a sus derechos ha adquirido una importancia y una urgencia adicional debido a la política gubernamental de otorgación, a compañías multinacionales mineras y madereras, de concesiones que invaden sus territorios ancestrales.

Estas concesiones se otorgan sin consulta previa con las comunidades afectadas; en la mayoría de los casos sin su conocimiento y con mínimos o inexistentes controles sobre el daño ambiental.

Fue comentada la suspensión por parte del gobierno de los contratos de las gigantescas concesiones madereras (3 a 5 millones de hectáreas) a Berjaya Berhad, Suri-Atlantic y MUSA de Indonesia. Estas concesiones habían sido, desde su anuncio, objeto de una vigorosa oposición por parte de los pueblos indígenas y maroon y la comunidad internacional. El segundo Gran Krutu declaró que la suspensión de estos contratos no era suficiente, sino que deberían ser totalmente anulados. El presidente J. Wijdenbosch anunció el 2 de enero de 1997, quizás en respuesta a esta declaración, que las grandes concesiones no serían otorgadas y que el tamaño de las futuras concesiones no sobrepasaría las 150.000 hectáreas. El director de la compañía Berjaya, Surrendre Mungra, hermano del ministro de finanzas y ex-consejero de la compañía Berjaya, Atta Mungra, pareció satisfecho de que su compañía pudiese comenzar a operar legalmente en Surinam ya que previamente lo hacían de forma ilegal a través de una compañía títere.

Sin embargo, las declaraciones del presidente abren muchas interrogantes como ser: ¿Podrá una compañía controlar más de una concesión a la vez? La respuesta parecería ser afirmativa. ¿Cómo podrá el Servicio Forestal Estatal controlar lo que presumiblemente será un gran número de nuevas concesiones de 150.000 hectáreas si ni siquiera puede controlar las concesiones ya existentes?

Por otra parte la zona de concesión de 3 a 5 millones de hectáreas de los contratos originales con Berjaya, Musa y Suri-Atlantic sigue estando disponible.

Se puede concluir que la única lección que el gobierno ha aprendido sobre el fracaso de las gigantescas concesiones madereras es que eran demasiado grandes y que éste era el único problema.

La compañía Golden Star Resources, una multinacional minera canadiense con base en Denver-Colorado, USA fue señalada por el Gran Krutu, el cual demandó que las actividades de ésta sean suspendidas hasta que las implicaciones de las mismas sean mejor conocidas, que los derechos territoriales de los pueblos indígenas y maroon sean legalmente reconocidos y que los límites de sus territorios hayan sido demarcados. Cuestionaron también la facilidad con la cual el gobierno concede cientos de miles de hectáreas a una compañía minera a la vez que se rehúsa a

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reconocer cualquier derecho indígena de propiedad sobre sus propios territorios. El representante de la Asociación de Pueblos Amerindios de Guayana informó al Gran Krutu sobre las actividades de la compañía Golden Star en Guayana y sobre el desprecio a los derechos indígenas demostrado por la misma.

La compañía Golden Star es conocida por su implicación en el desastre de la mina OMAI en Guayana donde unos 4 millones de metros cúbicos de aguas contaminadas con cianuro fueron volcadas en el río Essequibo y por su actual disputa con la comunidad maroon de Nieuw Koffiekamp en Surinam.

En Nieuw Koffiekamp, el personal de seguridad de la Golden Star y los policías que colaboran con la compañía han amenazado y hostigado a miembros de la comunidad disparando contra ellos para atemorizarlos y alejarlos de las zonas de prospección de oro. Los pobladores se quejan además de que la compañía les impide el acceso a sus tierras de cultivo y territorios de caza mediante el uso de las fuerzas de seguridad y el levantamiento de cercados.

La Golden Star anunció el 26 de septiembre de 1996 en un comunicado de prensa que es «inevitable» que los pobladores de Nieuw Koffiekamp sean reubicados para permitir las actividades de la empresa. Esta comunidad ya ha sufrido un reasentamiento forzoso a mediados de los años sesenta para permitir la construcción de una represa hidroeléctrica que provee energía a una refinería de bauxita propiedad de otra compañía multinacional, la ALCOA basada en los Estados Unidos.

El Gran Krutu expresó su solidaridad con los habitantes de Nieuw Koffiekamp y declaró su oposición a cualquier intento de reasentar a esta comunidad sin su libre e informado consentimiento como lo requiere la legislación internacional sobre los derechos humanos. Los participantes de otras comunidades que habitan territorios que actualmente están concesionados a la Golden Star expresaron su temor a ser sometidos al mismo tratamiento que los pobladores de Nieuw Koffiekamp o a que sus ríos sean un día contaminados con cianuro.

La comunidad indígena de Kwamalasemutu dejó constancia de que fueron presionados a firmar un acuerdo con la Golden Star, la cual llegó al extremo de llevar dos veces al ex dictador militar, Desi Bouterse, (actual presidente del Partido Nacional Democrático gobernante) a la población para convencerlos de que si no firmaban el acuerdo nunca tendrían «desarrollo» en la aldea. Sus líderes se habían previamente negado cuatro veces a las demandas de la Golden Star antes de firmar el denunciado acuerdo en noviembre. La comunidad indígena de Casipora indicó también que han sido amenazados por los empleados de la Golden Star y que el ex dictador Bouterse también fué a hablar con ellos luego de que se opusieran a la presencia de la compañía en sus territorios.

En la última reunión en Kwamalasemutu el traductor del cacique estuvo ausente, oportunidad que la compañía aprovechó para usar su propio traductor, el cual describió a la Golden Star y el impacto de sus actividades en un tono muy positivo. Irónicamente, esta comunidad y sus territorios ya son parte de una concesión, la cual incluye además un parque nacional, otorgada en el período de dictadura militar de Desi Bouterse a la empresa Surinamesa NaNa Resources, actualmente asociada con la Golden Star.

La comunidad de Kwamalasemutu repudió ante el Gran Krutu el acuerdo y pidió el apoyo de las otras comunidades. La Asociación de Líderes de Aldeas Indígenas de Surinam (VIDS) prometió investigar y tomar acción sobre este caso.

Otro importante tema de discusión fue el establecimiento de una comisión gubernamental dependiente de los ministerios de Recursos Naturales y de Desarrollo Regional para examinar el problema de los derechos territoriales en el interior de Surinam. Esta comisión reemplaza a la comisión Redan que fue constituida hace ya muchos años para examinar la misma problemática sin haber nunca presentado conclusiones publicas o recomendaciones. El Gran Krutu declaró que no posee ningún tipo de información sobre el propósito y mandato de esta comisión y expresó su enojo sobre el hecho de que el gobierno discuta los derechos indígenas sin la completa participación de sus legítimos representantes. Dijeron que «esto demuestra una vez más la falta de respeto de nuestros derechos humanos» y demandaron que cualquier futura discusión relativa a los territorios y recursos de los pueblos indígenas y maroon debe llevarse a cabo con la participación y el consentimiento de los representantes del interior.

Sin embargo, esta comisión la cual está constituida en su mayor parte por fieles miembros del Partido Democrático Nacional, continúa su actividad y ya ha mantenido un apreciable número de reuniones. Estas reuniones son a puertas cerradas y hasta la fecha la Asociación de Líderes de Aldeas Indígenas de Surinam (VIDS) ha sido excluida. La segunda fase del trabajo de la comisión será viajar al interior para celebrar reuniones en los asentamientos indígenas y maroon y entonces, presumiblemente, presentar un informe con conclusiones y recomendaciones. Las probabilidades de un diálogo constructivo son limitadas y la capacidad de los miembros de la comisión para el tratamiento del tema en cuestión es dudosa. Sus declaraciones públicas indican que no saben casi nada sobre derechos territoriales y dan a entender que no ven razón para modificar la legislación vigente o reconocer los derechos colectivos de los indígenas.

Indudablemente, esta cuestión va a volverse más contenciosa con el pasar del tiempo y los indígenas y maroon ya se están movilizando en su oposición a la comisión.

El texto completo de las resoluciones del encuentro puede ser encontrado en la conferencia E-mail gn:conf:rainfor.general

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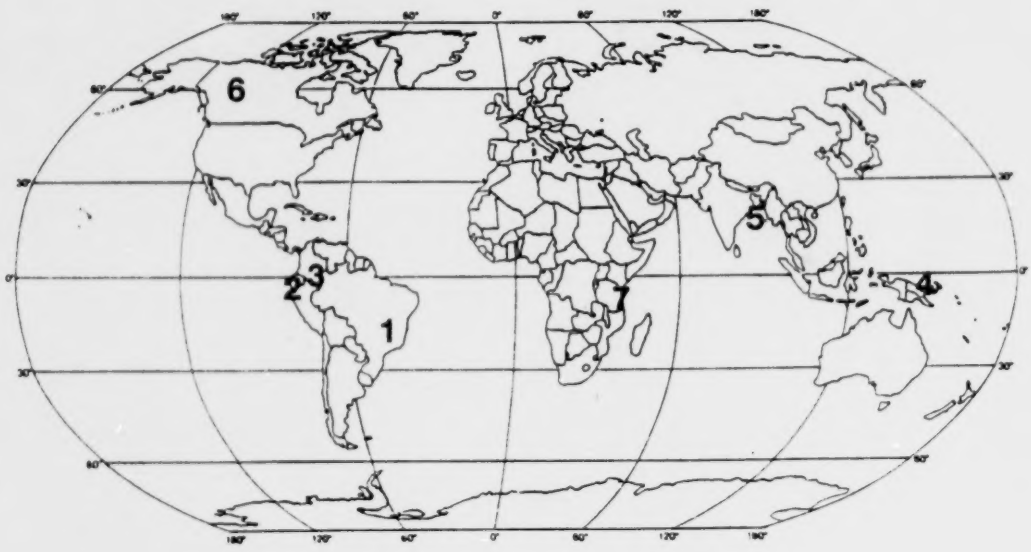

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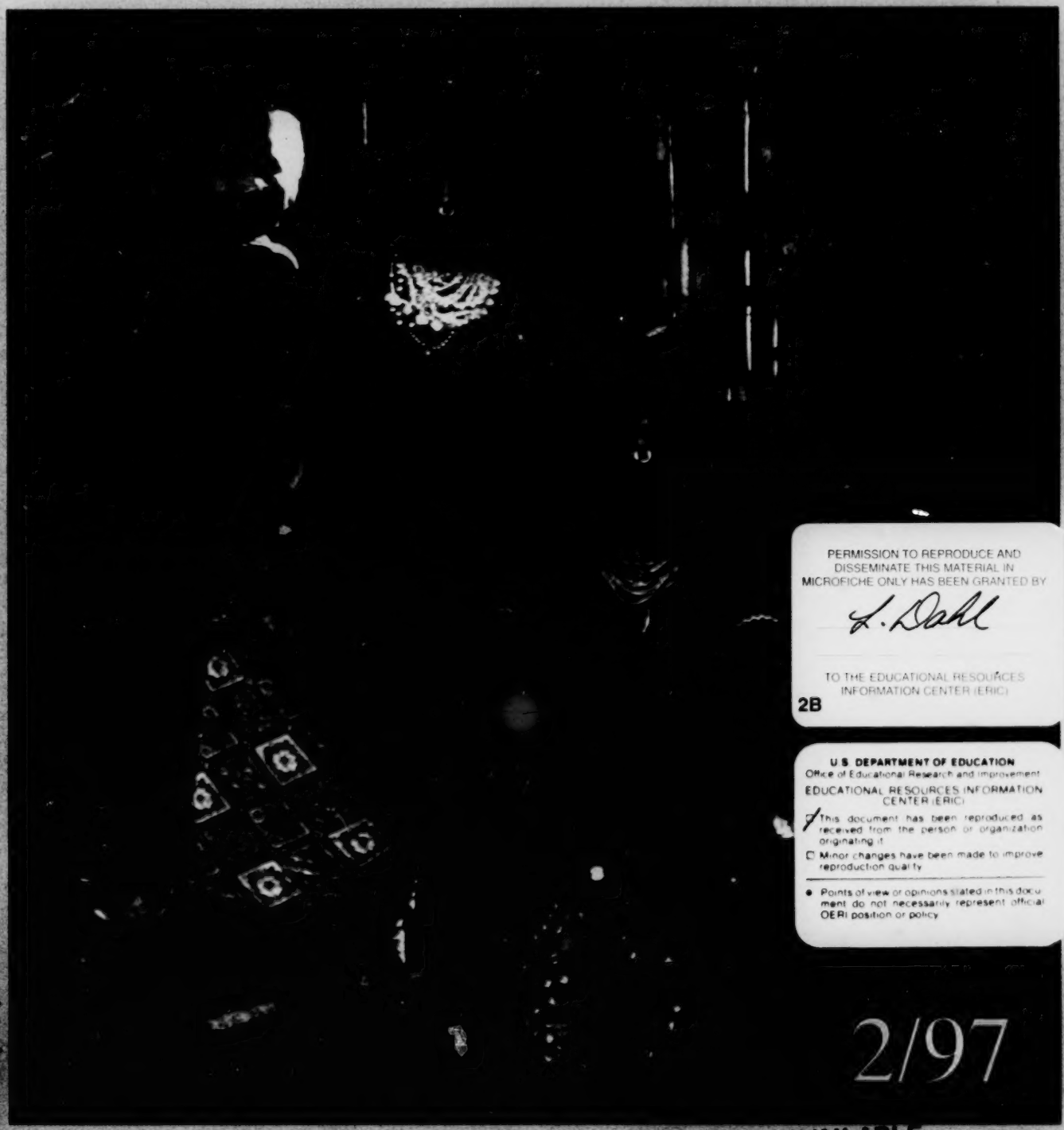

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Cover: Panama: Kuna children - Photo: Mac Chapin

Editorial

'I would love to open up the charter of the United Nations' said one indigenous representative during the second United Nations' workshop on the establishment of a permanent forum for indigenous peoples. It was held in Santiago, Chile, on 30 June to 2 July, 1997, and the Chilean government was the host. As is known to all who have followed the work within the UN for securing indigenous peoples' rights, there are two issues of main importance: the one being the adoption of the declaration on indigenous peoples' rights, the other one being the establishment of a permanent forum. The first workshop on this was held in Copenhagen in 1995, and the decision to hold a second workshop was taken in a resolution adopted by the Commission on Human Rights at its 53rd session this year.

The second workshop discussed the scope, mandate and placement of the permanent forum, and the job carried out by the 25 indigenous and 25 government representatives plus independent experts and a few non-indigenous NGOs was in many ways a concrete and practical one with the clear purpose of arriving at a precise idea as to the form and content of such a forum.

The statement about opening up the UN charter expressed a wish to make the Charter explicitly deal with peoples who are not states, but collective entities with the right to self-determination. Those thousands of peoples with different cultures and languages were peoples before this concept acquired its present international juridical meaning and were not taken into consideration when the UN was created in 1945. In other words, those peoples who today call themselves indigenous.

The indigenous legal expert who said it was very well aware of the utterly utopian character of her wish, as were all the other participants. The United Nations is in the middle of a reform process, but this certainly does not imply a revision of the whole fundament as expressed in the charter. This is in spite of the fact that many right-minded members of the UN may have realised the lack of justice in the present structure, which leaves out those that were organised into collectives with a specific social organisation, leadership, culture and well-defined territories long before the creation of those 185 entities called states, that now form the world community organised in the United Nations.

The UN is being reformed with the purpose of saving money - mainly on the initiative of the most powerful member of the 'family', the United States. The United States owes millions of dollars to the UN and has refused to pay the bill until a reform has been carried out. The new Secretary-General of the UN, Mr. Kofi Anan is having a hard time living up to the demands of the UN. And as badly founded as the demand for reform may be, the UN is forced to accept it in order to acquire its rightful contribution from the richest country in the world.

All this has implications for the situation of the world's indigenous peoples. The objections to the formation of a permanent forum within the UN come from among others the United States, with the main argument that it is too expensive and goes against the objectives of the reform and rationalisation process. At the Chile workshop, however, almost all the other participants agreed to regard the creation of a permanent forum as a constructive part of the reform process, rather than another expense-demanding initiative. But money was not the most important of the issues discussed. The talks centred around the form and struc-

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ture of the forum, the mandate, indigenous peoples' representation, the link to other UN institutions, the significance of such a body and the further process of negotiating this within the UN.

The results of the meeting can be found in the official UN document E/CN.4/Sub.2/AC.4/1997/CRP.1. As attachments to the report, the members of the UN General Assembly, who will take a stand on this at the next meeting, will find a number of important papers including the so-called Temuco Declaration. An indigenous meeting was held in Temuco, Chile, on 6-8 May, organised by *Consejo de Todas las Tierras* (All Lands Council) and with technical assistance provided by IWGIA. This was a very successful meeting with a number of indigenous representatives, mainly from South and Central America. The resulting declaration can be found at the end of this editorial, and the indigenous views reflected here were much referred to in the official UN meeting, which appreciated this useful preparation for the talks.

This issue of *Indigenous Affairs* further presents a number of local occurrences in the indigenous world, this time with some emphasis on South America. A most instructive case of indigenous and national politics and the often complicated relation between the two is represented by the results of the recent elections in Bolivia and the interesting process leading up to the results. It clearly demonstrates the difficulties confronted by an indigenous organisation that attempts to form an alliance with a political party. This case reminds us that taking part in politics has to take into consideration the specific conditions of the indigenous peoples in a country. In Bolivia the constitutional reforms in 1993 and the recognition of the multicultural character of the country means that Bolivia has accepted the political participation of its indigenous population, and the indigenous movement of the lowland indigenous peoples, organised in CIDOB, is a strong one. However, the election and the recent political processes show that there is still a long way to go before indigenous rights are truly recognised by non-indigenous political parties. Also, there are a number of very concrete problems. In Bolivia 81% of the indigenous population is without the documentation necessary for taking part in the electoral process. Furthermore, the analysis of Ruth Llanos and Mamerto Pérez shows that the election pattern of the indigenous peoples is determined by tradition, pragmatism and unequal relations with *patrones*, the landlords who have traditionally made decisions on behalf of the indigenous workers.

The Kuna of Panama are struggling to avoid the placement of a naval base within their territory, while recognising the necessity to create such a base in order to guard national security and to combat the presence in the area of guerillas, paramilitary groups and drug dealers.

In Argentina one modest demand of the indigenous peoples is that they maintain the right - given by the laws that prohibit discrimination but are not respected in reality - to give their children indigenous names.

The case of Galdino, a Pataxó who came to the Brazilian capital to claim the land rights of his people and was assassinated by a group of middle class youngsters in the most gruesome way reveals with tragic clarity the general arrogance, incredible stupidity and lack of respect for other human beings that is unfortunately part of some middle and upper class attitudes in this country. It is depressing to think that it is necessary to remind parents and teachers that children and young people should be taught the very basic rules of respect for human life and other people's integrity, and this in a country that claims to be democratic and founded on Christian values. It is shocking to know that young people, who have gone to school and had more chances and material well-being than most Brazilian citizens need to be taught the inviolability of another human being, regardless of social and ethnic status. The fact that the group of young middle class persons who were the culprits of the horrible deed that took the life of Galdino Pataxó said they thought the living creature, on whom they chose to practice their sadism, was not an Indian but 'a poor man' only adds to the tragedy and the appalling nature of their act. It is the general lack of respect for human lives and human rights regardless of wealth and social status that also affect the indigenous population in Brazil when they fight for their basic rights, whether they are Pataxós or the Yanomamis, who, again, face the life-threatening consequences of encroachment upon their land by gold-prospectors, after the government has stopped the surveying of the area. Much has been done in Brazil to protect the territorial rights of the indigenous peoples. But this has taken place more on paper than in reality, and even on paper there is still a long way to go in this extremely rich country that could easily afford both to give the indigenous population their basic rights and to improve the lives of the millions of poor. This will come about only on the condition of a radical change of attitude in that part of the upper and middle class that create creatures able to commit inhuman acts like the one done to Galdino by the ignorant, spoiled boys from Brasilia.

As the *Consejo Indigena de Roraima* says, 'We peacefully claim the right to

life, to the land, confiding always that the justice of the white man will some day come to us.'

A different but related issue is touched upon by Robert Hitchcock in his article on indigenous peoples, international corporations and human rights. At the UN workshop in Santiago an indigenous representative from Asia emphasised the detrimental role of the big transnational corporations and the general trend in the world today of adopting the structure of corporations, also in areas that would seem foreign to this kind of structure - like the UN. She would agree with those indigenous leaders referred to by Robert Hitchcock who accuse the multinational corporations of having turned into 'agents of genocide and cultural destruction'. It is increasingly becoming a problem for the nation-states that while the protection of human rights and the environment is in the hands of states and institutions like the UN, corporate interests are concentrated in extraction of wealth and the accumulation of surplus, generally at the expense of the local population in the areas where the corporations choose to work - and many of these areas are indigenous.

If, or rather when, the UN seriously begins to face the challenges of adopting to the situation of the world of today, it not only has to confront the problem of conflicts within states and ethnic confrontations called forward by inequality and economic and political interests, as happened in the former Yugoslavia and is tragically still happening in parts of Africa. It also has to confront the changing power structures of the world with more and more concentration of power outside the states and outside state control.

There may be some who claim that capitalism is the main culprit of this situation, although it has not been fashionable to say so since the breakdown of the undemocratic socialist states. But still many, if not most, indigenous peoples are faced with the very concrete consequences of a worldwide capitalist system with too few restraints and too much economic power concentrated in undemocratic hands and accompanied by that consumer greed of the Western world, which is sometimes disguised as development.

The idealistic basis of the UN is put on trial today, 50 years after its creation, in more than one way. Of most severe importance to the indigenous peoples is the increasing power of multinational corporations. Moreover, the UN has, from the time of its creation, ignored the presence and neglected the rights of those peoples who had organised themselves into *peoples* before this concept acquired any legal status and became the foundation for the international juridical instruments that secure collective rights - that is, before states were formed. In other words, the more than 5,000 indigenous peoples around the world are not fully represented at the UN.

At the Santiago workshop the same indigenous representative who made the utopian quest for opening up the UN charter kept emphasising the need for the indigenous peoples not to foreclose future possibilities of expanding their influence and rights by regarding the construction presently aimed for - called the permanent forum - as too permanent. The UN body to co-ordinate issues of concern to indigenous peoples and secure their access to the international system as full partners has acquired the working name 'a permanent forum'. It should, however, not be regarded as more permanent than being ready - like the whole of the UN system - to adapt to changes in the world. We do not know what the future will look like.

That, however, does not excuse us from looking straight and openly at the present reality, and from trying to adapt existing mechanisms and instruments for securing individual and collective rights to the actual situation. The challenge of this implies finding new means and measures for limiting turbo-capitalism and wild growing free market forces. This is not an easy job. A much easier one is to create a forum for indigenous peoples' affairs within the UN system, at the highest possible level, and with as broad a mandate as possible. This should not be too much of a problem, and as the second UN workshop showed, with a few sad exceptions, governments, indigenous participants and independent experts agreed to do so. One of their most important working tools was the Temuco Declaration, which was accepted by all parties as a document that expressed the wills and wishes of a great number of indigenous representatives. Most of these were from the Americas.

One wish from IWGIA, as an observer and supporter of the indigenous cause, would be that the Asian, African and Pacific indigenous peoples likewise soon get the chance to express their attitudes to the structure and content of a permanent forum in more detailed ways than the official UN workshop in Chile left room for. ❑

Declaration of the 'First International Indigenous Conference on a Permanent Forum in the United Nations'

Temuco, Chile, 6-9 May 1997

1. We, the Indigenous Peoples, meeting in Temuco, reaffirm Art. 1. 2. of the principles and objectives of the Magna Carta of the United Nations: To develop with equal rights to all other peoples and nations of the world.
2. Taking into account the recommendations pertaining to Indigenous Peoples in the Vienna Declaration and Program of Action adopted by the World Conference on Human Rights (A/Conf. 157/23), concerning the establishment of a Permanent Forum for Indigenous Peoples within the United Nations;
3. Recalling also the recommendations of the United Nations Conference on Environment and Development in Article 22 of the Rio Declaration on Environment and in Chapters 11 and 26 of Agenda 21, as related to Indigenous Peoples;
4. Recalling further, The General Assembly Resolution 50/157/95, in which the establishment of a Permanent Forum within the United Nations is identified as one of the main objectives of the International Decade of the World's Indigenous Peoples, together with the adoption of a Universal Declaration on the Rights of Indigenous Peoples;
5. We welcome the Secretary General s study of the existing United Nations mechanisms, procedures and programmes which affect Indigenous Peoples (A51/493/96);
6. Considering the conclusions of the Secretary-General which indicate that there are no United Nations mechanisms which give Indigenous Peoples the opportunity to take part in its decision-making, and that there is no regular exchange of information between Governments, Indigenous Peoples, and the United Nations System;

We, the Indigenous Peoples, declare:

1. Based on the principle of dialogue between Governments and Indigenous Peoples, we call for the rapid establishment of a Permanent Forum at the highest level.
2. Indigenous Peoples are entitled to full and effective participation in the Permanent Forum, on equal footing with Governments.
It is also important that the United Nations agencies, non-governmental organisations and independent experts have the opportunity to take part in the deliberations of the Permanent Forum, whenever this is required by the parties involved.
3. The mandate of the Permanent Forum must be as broad as possible, covering all areas affecting Indigenous Peoples of the world, including all cultural, civil, political, social, economic, health, development, educational, environmental, territorial and human rights, conflict resolution and the coordination of activities with other agencies within the United Nations concerning Indigenous Peoples. ❑

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INDIGENOUS PEOPLES, MULTINATIONAL CORPORATIONS AND HUMAN RIGHTS

By Robert K. Hitchcock

The push for so-called free trade and shifts in global political economic systems has resulted in the concentration of wealth and power in the hands of a few hundred corporate giants, many of them bigger than most sovereign nations. These multinational corporations (MNCs), international business enterprises (IBEs), or trans-national corporations (TNCs) are, as Barnet and Cavanagh (1994:15) note, "the first secular institutions run by men (and a handful of women) who think and plan on a global scale. Multinational corporations as complex institutions control vast amounts of capital, labor, natural resources, and information".

Eighty per cent of foreign investment is done by some 500 multinational corporations, which together control 70% of world trade and 30% of the world's Gross Domestic Product (GDP). A sizable number of nation-states, including some of the least developed, are dominated economically by multinational corporations. In many of these countries, decision-making is influenced heavily by corporate elites. A problem facing the citizens of nation-states is that the protection of human rights and the environment is in the hands of states and multilateral institutions such as the United Nations, whereas corporate interests sometimes focus on profit-making and resource extraction, often at the expense of local people and the habitat.

As indigenous peoples and others living in those areas where multinational corporations are operating note, the companies often put their own interests ahead of local people and governments. The common perception among indigenous peoples about multinational corporations is that they control vast resources and global channels of communication and thus they have tremendous effects on even the remotest habitats and human populations.

In October, 1995, I was working on issues involving resource rights among indigenous populations in the northwestern Kalahari Desert region of southern Africa when I spoke to an elderly Ju/'hoan man about hunting. This man, who was sitting in the sand and sharpening a poison arrow, looked up at me and said, "Well, do you think OJ's guilty?" Today it is common to see adults and children in the savannas of Africa, the rain forests of the Amazon and southeast Asia, and the tundra of Siberia wearing T-shirts with Mickey Mouse on them, drinking Coca-Cola, and watching CNN and M-TV. When asked whether or not they like what is happening as a result of the globalization of trade and communication, indigenous people often reply that they definitely appreciate having greater access to goods, technology and information but that they are concerned about the negative social, economic and environmental effects of multinational corporations and global business activities. This was the case with the Kua San (Basarwa, Bushmen) of the Orapa area in the eastern Kalahari region of Botswana who were required to move out of their traditional territories when a diamond mine was established in the late 1960s by De Beers, part of Anglo American.

Indigenous peoples' advocacy organisations and grassroots groups have been holding forums on the impacts of transnational corporations since the late 1960s. In 1981 the World Council on Indigenous Peoples (WCIP) identified multinationals as "the most immediate and serious threat to the survival of Indigenous Nations of the Fourth World" (Burger 1981:16). A report on trans-national corporations by the United Nations Transnational Corporations and Management Division (UNTCMD) in 1993 noted that indigenous nations were being harmed more often by private companies than they were by governments (UNTCMD 1993). Some indigenous leaders have stated in international

forums on indigenous rights that multinational corporations have become 'the agents of genocide and cultural destruction.'[1]

Today, multinational corporations are engaging in resource extraction and business activities in some of the world's most remote regions, often with little or no regard for their impacts on resident groups and the environment. Some of them receive significant support from governments and international finance institutions even though they employ oppressive tactics and are harming the habitats where they are operating.

According to representatives of indigenous groups speaking at international meetings on human rights, those peoples defined as indigenous have experienced mass killings, arbitrary executions, torture, mental and physical mistreatment, arrests and detentions without trial, involuntary relocation, and destruction of their subsistence base at the hands of not only the state and individuals but, increasingly, multinational corporations. The pace of destruction of indigenous peoples has risen substantially in the latter part of the 20th century, in spite of the fact that international indigenous rights standards have been established to try and counteract discrimination against and mistreatment of these populations (Burger 1987; Hitchcock and Twedt 1995).

Several major events in the past few years have led to a significant increase in interest in issues involving the impacts of multinational corporations on indigenous peoples. One event was the impact of American and other oil companies on the Huaorani (Waorani) of the Oriente Region of Ecuador, described by Judith Kimerling in her book *Amazon Crude* (1991). The effects of oil companies such as Conoco, Texaco, and Maxus on the habitats and people of the Oriente ranged from massive pollution from oil spills and the dumping of toxic wastes to dispossession and intimidation of local people (Rival 1993; Jochnick 1995; Kane 1995).

A second event was the Zapatista uprising in Chiapas, Mexico, on January 1, 1994, a political movement linked by its initiators to the passage of the North American Free Trade Agreement (NAFTA). Zapatista leaders cited the failure of the government of Mexico to deal with problems caused by changes in land tenure and declining socio-economic status of indigenous groups, including the Lacandon Maya. The Chiapas case provides us with an excellent example of the attitudes of so-called free traders. A member of Chase Manhattan Bank's Emerging Markets Group, Riordan Roette, made the following comment about the Zapatista uprising:

> *While Chiapas, in our opinion, does not pose a fundamental threat to Mexican political stability, it is perceived to be so by many in the investment*

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community. The government will need to eliminate the Zapatistas to demonstrate their effective control of the national territory and of security policy (January, 1995).

In this case, we have an economist actually suggesting that Mexico should engage in genocide to promote so-called free trade. While Dr. Roette was eventually removed from the Emerging Markets Group for 'disciplinary reasons', insiders suggest that his transgression was that he failed to keep his remarks from being brought to light in the media rather than his opinions about how to handle the situation in Mexico.

Genocide is neither accidental nor an unintended result of the actions of private companies, development agencies, or governments. In virtually every case, genocide is a calculated and generally premeditated set of actions designed to achieve certain goals such as the removal of competitors or the silencing of opponents (Charny 1984; Kuper 1985; Fein 1990).

Representatives of private companies have argued against the notion that they are responsible for either physical or cultural genocide of indigenous peoples, claiming that there had been no **intent** to destroy indigenous peoples **as such** and that the groups were never eliminated 'as an ethnic or cultural group' (Kuper 1985:12-13). Private companies and governments usually state that the deaths of indigenous people were 'unintended consequences' of development efforts and that there were no planned efforts to destroy peoples on the basis of who they are. Indigenous peoples are treated the way that they are because, as they put it, they are 'not utilizing land productivity'.

Some analysts see the destruction of indigenous groups as a 'necessary biproduct' of economic development. Roger Smith (1987:23) argues that the Indians of Peru, Paraguay, and Brazil were 'destroyed out of cold calculation of gain, and, in some cases, sadistic pleasure rather than as the result of a political or economic crisis'. The phenomenon has become so widespread, in fact, that a new term has been developed to describe them: **developmental genocides** (Hitchcock and Twedt 1995).

The harming of indigenous peoples by multinational corporations is occurring on every continent and in a variety of social, political, economic and environmental contexts (see Table 1). The establishment of oil exploitation programmes in Africa and Amazonia, the cutting of timber in tropical forests in south-east Asia, Australia, and North America have contributed to processes of physical and cultural destruction, dispossession, acculturation or impoverishment of indigenous peoples (Davis 1977; Burger 1987:96-97, 106-109, 256-259; Wilmer 1993:128-130; Hyndman 1994:143-150; Young 1995:155-158). The implementation of large-scale hydroelectric projects, many of them now funded by consortiums of private banks rather than the World Bank or other international finance institutions (IFIs) have resulted in the displacement of literally millions of people, many of them indigenous (World Bank 1994; McCully 1996). All too frequently, local people have been forced out of development project areas with little or no compensation provided to them either in the form of alternative land or cash for lost assets. Involuntary resettlement and loss of land access has had the effect of increasing internal social tensions, some of which are exhibited in higher rates of spouse and child abuse, divorce and suicide among local people.

The setting up of commercial agricultural projects has had similar impacts. This can be seen, for example, in the case of northern Tanzania, where the Barabaig were affected by the expansion of a wheat scheme implemented by the National Agriculture and Food Corporation (NAFCO) and a Canadian multinational (the Tanzania-Canada Wheat Scheme, TWCP). This scheme saw the Barabaig lose over 100,000 acres of prime grazing land, and it led to numerous human rights violations, including arrests, detention without trial, beatings and torture (Africa Watch 1990; Lane 1991; Tenga and Kakoti 1993).

Genocidal actions also sometimes occur in situations where there is purposeful environmental destruction. Ecocide, the destruction of ecosystems by states, agencies or corporate entities, is a problem facing substantial numbers of indigenous and other peoples in many parts of the world. This can be seen, for example, in the case of Ogoniland in Nigeria, where Shell Oil has failed to deal with the pollution caused by their petroleum extraction activities (Saro-Wiwa 1992; Brooks 1994; Kretzman 1995). Activists opposed to the degradation of ecosystems have had to contend with transnational corporation and state efforts to silence them, sometimes violently (Human Rights Watch/Africa 1995; Sachs 1995). The execution by the Nigerian state of Ken Saro-Wiwa, the head of the Movement for the Survival of the Ogoni People (MOSOP), on November 10, 1995, underscored the dangers faced by environmental activists and the lengths to which their opponents are willing to go.

There are a number of cases where multinational corporations have allegedly been involved in perpetrating massive human rights violations against indigenous peoples. This can be seen, for example, in the case of the mining company Freeport Indonesia Inc. (FII), a subsidiary of New Orleans-based Freeport McMoRan, in Irian Jaya (West Papua). Freeport Indonesia is said to be guilty of complicity with the Indonesian government in a whole series of human rights crimes, including assassinations, disappearances, raids and burning of villages, detentions without trial, torture, purposeful dumping of toxic substances, and intimidation of opponents. Justifications by company executives for their actions range from protecting their assets and the security of employees to making profits for the government of Indonesia (Hyndman 1994; Mann 1995; Survival International 1995; cf. McMenamin 1996).

Multinationals have sometimes gone to extraordinary lengths to silence critics. Those academics who have sought to criticise the actions of Freeport McMoRan, for example, have been hit with lawsuits and have lost their jobs when pressure was brought to bear on university administrations. Such a situation occurred, for example, at the University of Texas in 1996 when an anthropologist was forced to resign because of his criticisms of Freeport McMoRan. Multinational corporations increasingly are using SLAPP suits ("strategic lawsuits against public participation") as a means of countering their opponents. At the University of Colorado, an as "Environmental Ethics: Race, Class, and

Nigeria: Shell has not been able to contain waste caused by its oil extraction activities
Photo: Anne Hege Simonsen

Politics", was forced to give up teaching the class because the university decided to stop funding it after criticisms levelled in a series of letters from private companies (Winkel, *The Christian Science Monitor*, May 15, 1996, p.6). It is clear that companies are willing to limit academic freedom and free speech in order to protect their interests.

There have been few cases where companies or development agencies have been required to change their tactics or to follow international standards. As yet, there are no internationally accepted principles by which companies, development institutions, or conservation organisations must operate. The consequence is that indigenous groups and their supporters face major problems.

Some indigenous groups are taking matters into their own hands, blockading company roads into forests areas and stopping tourists from entering Club Meds. The blocking of logging roads has been done by the Penan of Borneo in Malaysia, for example, and the results have been beatings, arrests, and detentions (Dentan *et al* 1995). Others are using less confrontational tactics, appearing before the United Nations and Congressional sub-committees in the United States and holding teach-ins and training sessions on how to write letters to boards of directors of companies. The Huaorani of Ecuador appealed directly to the Inter-American Commission on Human Rights in 1994 and the Khwe (San, Basarwa) of Botswana attended the meetings of the Human Rights Commission in Geneva in March, 1996.

Indigenous organisations today are pushing for the establishment of strict international business standards and the imposition of severe sanctions on those companies that engage in human rights and environmental abuses. They are also arguing for major changes in the rules by which the World Trade Organization (WTO) and the various multilateral development banks operate.

Efforts are being made by intergovernmental organisations, indigenous associations, development and human rights-oriented non-governmental organisations, and interested individuals to draw up guidelines for development project implementations that protect both local people and their ecosystems. The problem with many of these guidelines, however, is that they rarely, if ever, are enforced. While detailed international standards have been established for how to handle resettlement of people affected by large-scale infrastructure projects, there are few cases where all or even most of the steps have been followed. The result has been that nearly all of the people who have been forcibly relocated, numbering in the tens of millions of people, have ended up much worse off after they were relocated.

Indigenous groups have begun to organise among themselves in an effort to oppose genocidal practices and promote human rights. How successful these efforts will be very much depends on

whether or not private companies, intergovernmental organisations, states, and non-governmental organisations are willing to (1) come up with strict internationally recognised human rights and environmental standards; (2) monitor development and conservation activities as they are implemented; and (3) enforce those standards.

What this means, in effect, is that private companies will have to be held to the same standards as governments, and they must be liable to prosecution for genocidal actions and human rights violations. It may be necessary, in my opinion, to charge Chief Executive Officers (CEOs) of some of the world's major corporations with crimes against humanity and try them in a duly constituted and independent international court. Publicising the names of those companies involved in human rights violations would be helpful, and efforts are on-going on these lines with the assistance of a number of non-governmental organisations. It would also be useful to impose sanctions and organise boycotts against those companies involved in systematic human rights violations. It is only when company profits and stock values begin to decrease that efforts be made to curb the kinds of systematic mistreatment of indigenous peoples that are so commonplace today in many parts of the world.

The international business community needs to take further steps to develop a code of business ethics that protects the rights of people in areas where businesses are operating. Governments and companies must live up to their obligation to protect indigenous peoples and not compromise their rights under the weight of so-called "progress", economic growth or free trade. Finally, all institutions, whether they are multinational corporations, states, non-governmental organisations, or indigenous support groups, need to work together to promote the rights not just of indigenous peoples but of all human beings.

Note

[1] Some of these forums include the Fourth Russell Tribunal which was held in Rotterdam, the Netherlands, in 1980, the Symposium on Inter-Ethnic Conflict in South America, sponsored by the Program to Combat Racism and the World Council of Churches and held in Barbados in January, 1981, the conference on "Native Resource Control and the Multinational Corporated Challenge: Aboriginal Rights in International Perspective", held in Washington, D.C. in October, 1982, and various meetings of the Working Group on Indigenous Populations (WGIP) of the United Nations.

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Projects of Multinational Corporations (MNCs) That Have Had Negative Impacts on Indigenous Peoples' Well-Being

Company	Country	Impacts
Ecuador Oil Developments (Petroecuador, Maxus Oil Co., Conoco, etc.)	Ecuador	Waorani and other indigenous peoples forced off land, massive environmental problems with oil spills, poisoning of water, loss of biodiversity
Freeport-McMoRan Copper and Gold, Inc. Mining	West Papua (Irian Jaya)	Amungme and other West Papuans dispossessed, crackdowns on local people, ecological destruction
Total, Unocal (Union Oil Company of California)	Myanmar (Burma)	construction of an oil pipeline allegedly with the use of slave labour, abuse of workers
Royal Dutch Shell	Nigeria	environmental destruction due to oil spills, dispossession of Ogoni people, oppression, arrests, detention, killings and capital punishment of environmental activists
Tanzania Wheat Project	Tanzania	Barabaig agropastoralists removed from their lands, harassed and jailed, denied access to winter grazing, and land rights challenged
Borneo Logging (e.g. Mitshubishi)	Malaysia	deforestation, dispossession, and oppression of Penan and Orang Asli populations
Western Desert Mining (e.g. Rio Tinto Zinc)	Australia	Aboriginals forced out of traditional areas, pollution and destruction of resource base
Uranium Mining (e.g. Kerr-McGee)	New Mexico	Navajo miners got lung cancer and other diseases but were provided with minimal compensation and assistance
Agricultural Projects (e.g. Swift-Armour, King Ranch)	Brazil	clearing of forests for livestock grazing has led to dispossession, subsistence stress and social conflicts

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RUSSIA

Government deception threatens destruction of eastern Khanty traditional culture

RUSSIA

BY ANDREW WIGET AND OLGA BALALAEVA

Since 1992, supported by the MacArthur Foundation, we have been working together in Western Siberia, documenting the Eastern Khanty traditional way of life and assessing the impact of petroleum development upon it. We have made extensive fieldwork visits among the Khanty of the Yugan every year since then.

It very quickly became clear that some urgent steps needed to be taken. As early as 1993, we thought that linking the Yugan Zapovednik with UNESCO's Biosphere Reserve Programme could provide the basis for a strategy for protecting the Khanty culture and the environment on which it depended. In May, 1996, at an international seminar at the University of Northern British Columbia, the creation of a Biosphere Reserve on the Yugan was formally proposed to GOSKOMSEVER, the Russian State Committee for the North, which sponsored the seminar and which has overall responsibility for developing and coordinating programmes for the Russian North and Russia's indigenous peoples. The proposal was accepted.

In July of 1996, an official of GOSKOMS-EVER, Deputy Minister Anatoly I. Volgin, visited Khanty-Mansiysk, Surgut and Ugut, where he discussed the proposed biosphere reserve and received verbal assurances of agreement from the head administrator of Khanty-Mansiis-kii Autonomous Okrug, A. V. Filipenko, whose only condition is that existing licensed territories be excluded from the proposed Biosphere Reserve. To facilitate planning, Filipenko authorised the Surgut administration to provide a map of existing and projected license areas in the Yugan basin. From regional and village adminstrators, as well as from the zapo-vednik staff and the Khanty community in Ugut, the GOSKOMSEVER official also received assurances of support.

After a site visit to the Yugan by a representative of GOSKOMSEVER found local support for the concept, we spent many days travelling by boat on the Boshoi and Malyi Yugan Rivers, stopping at each family settlement to explain the nature of the Biosphere Reserve concept and collect signatures to establish one in the Yugan region. Every adult in every family we approached signed eagerly. Working with local government authorities, leaders in the Khanty community, and Khanty families, we defined reasonable boundaries for the various areas in the proposed biosphere reserve. During the course of the past year, both GOSKOMSEVER and Russia's UNESCO - Man And The Biosphere Committee have recommended establishing the Yuganksii Khanty Biosphere Reserve.

It now appears that a deliberate strategy, begun almost a year ago, has been implemented by the administration of Khanty-Mansiiskii Autonomous Okrug to delay approval of the proposed Yuganski Khanty Biosphere Reserve until all the territories defined for development within the reserve's proposed boundaries can be tendered for license. Evidence for both the urgent necessity to establish this biosphere reserve and the Okrug's strategy of delay and deceptions is provided below.

The last zone of Eastern Khanty: traditional living with cultural and ecological integrity

The Eastern Khanty, an indigenous tribal people who number around 5,000, survive on territory that has been their home for thousands of years before the Russians came. The Eastern Khanty are subsistence hunters and fishermen, sometimes reindeer herders, who still maintain their clan system, their native religion and language, and their traditional way of life in widely separated extended family settlements on traditional hunting territories, often 1-4 days by boat from telephones and electricity. Their culture was born in and is specifically adapted to the forest-and-swamp ecosystem of the middle taiga. Now, after millenia, their land, and with it their culture, is threatened with destruction.

In the late 1960s oil was discovered in the basin of the middle Ob River, and the Soviet government and state oil monopoly began a virtually unregulated oil rush. By the early 1980s Samotlor, the name of the region's first major area of petroleum development near Nizhnevar-tovsk, had already become a mark of shame. Today, throughout the area, oil spills and casual pollution blacken the wetlands; raised roads trap water causing flooding and ruining the forests; fires caused by oilworker carelessness and petroleum soaked debris send columns of smoke into the air; and acid rain blights huge territories. Western Siberia, like the America's Appalachian coal fields at the beginning of this century, has become a national sacrifice area, and joined other Siberian regions that surrendered their life for the wealth of the state. By the late 1980s all but a few areas (Kazym River, Yugan) had been seized for production by the Ministry of Energy and the government oil monopoly, and the region virtually supported a collapsing Soviet economy by providing a cheap domestic petroleum supply and petrodollars gen-

erated from export. This period was marked by the forcible relocation of Khanty families from their traditional family hunting territories or the destruction of the natural resources of occupied family territories which eventually forced the families to voluntarily relocate.

Moreover, the collapse of the Soviet Union, however it may be regarded elsewhere, has only aggravated the destructive forces with a new spirit of free-booting, frontier capitalism Moscow cannot or will not constrain.

The result is that after 3,000 years of occupancy, there are today virtually no traditional Khanty family settlements on the Vakh, Agan, Salym and Vas-Yugan Rivers though these were all well-populated areas, rich in terms of traditional economy, twenty years ago. Other river systems like Pim and Trom-Agan are heavily impacted and the Khanty marginalised. Only the Khanty families on the Bolshoi and Malyi Yugan Rivers, about 850 people in more than 40 scattered extended family settlements, have been minimally impacted. Today, they are surrounded and petroleum development now threatens to engulf the Yugan, the last pristine territory of native living in the region.

The rich and complex Yugan ecosystem threatened

The basin of the Bolshoi and Malyi Yugan rivers represents the last, large contiguous and virtually unimpacted tract of middle Siberian taiga (river, swamp and forest) and its associated fauna. These include more than 200 types of birds, seven of which are on Russia's Endangered Species List (Red Book).

Moose, wolverine, bear, badger, lynx, sable, mink, fox and reindeer populate the forests and the rivers remain rich in otter and muskrat as well as perch, pike and other types of fish. The very richness of the area and its relative isolation prompted the Soviet government to create the Yuganskii nature preserve in 1982. Three other major river basins (Pim, Trom-Agan and Agan) have already been lost, with fishing almost ruined and furbearers driven away, and Khanty culture significantly impacted by environmental destruction and, in earlier periods, forcible relocation. While the upper Lamin is still uncontaminated, there is no *zapovednik* (protected land) regime in that area, and it is scheduled to be developed; its future is therefore clear. Today, the Bolshoi and Malyi Yugan Rivers represent the last of the middle Ob River's tributaries in the Surgut region which remains protectable and uncontaminated by petroleum development. But now previously defined territories in the Yugan basin are being scheduled for tender. Many of these projected licenses straddle headwaters areas of both the B. and M. Yugan Rivers, promising downstream damage that would magnify the impact of development much beyond the licensed territory. One existing license, it has been discovered, even intrudes on the nature preserve itself, a fact that was unknown even to the nature preserve staff. Thus, although theYugan remains the last preservable area of representative ecology and zone of compact Eastern Khanty traditional living in a region marked by an extraordinary degree of social and environmental damage, *if the territories scheduled for tender (as indicated below) are licensed, the Yugan River basin ecosystem and the culture of the people dependent on it will certainly be irreparably damaged, perhaps even destroyed.*

A strategy for conservation of land and culture: the projected Yuganskii Khanty biosphere reserve

The proposed Yuganskii Khanty Biosphere Reserve would combine the land base of the Yuganskii Zapovednik with the land base of more than 40 Khanty traditional family hunting territories along the Bolshoi and Malyi Yugan Rivers, which embrace the Zapovednik on the east and the west like two arms. The total area under protection would be more than three times the size of the zapovednik itself. The main features of land use plan will be: (1) the preservation of Yuganskii Zapovednik as a large sample of middle taiga zone ecosystem for scientific study in Core Area and 2 km Buffer Zone 1; (2) preservation and development of traditional Khanty economy of hunting, fishing and gathering in Buffer Zone 2 (family hunting territories); and (3) limited, ecologically-sound petroleum exploration in existing license areas in the Transition Zone. The land use plan also provides for local self-go-vernment for the Khanty community. The administration of the zapovednik will administer the Core Area and Buffer Zone 1. Khanty community as an organ of local self-government will administer Buffer Zone 2. A formal co-management agreement will be signed between the Khanty community and the administration of the Yuganskii Zapovednik, describing conditions of access to and use of various zones in the biosphere reserve; conservation, development and logistic priorities; and procedures for further local policy development and for conflict resolution. This letter will be countersigned by representatives of the supervising central government agencies. Aproval for this zapovednik has already been given by GOSKOMSEVER and Russia's UNESCO - Man And The Biosphere Committee during the past year. *Nevertheless, it now appears that a deliberate strategy, begun almost a year ago, is being implemented by the administration of Khanty-Mansiiskii Autonomous Okrug to delay approval of the proposed Yuganski Khanty Biosphere Reserve until all the territories defined for development within the reserve's proposed boundaries can be tendered for license. Evidence for this is provided below.*

History of the struggle for land and self-determination on the Yugan

1992: On 5 February, 1992, despite resistance from delegates representing oil interests, the Council of People's Deputies of Khanty-Mansiiskii Autonomous Okrug (KMAO) issued 'Polozhenie o statuse rodovyx ugodii v Xanty-Mansiiskom avtonomnom okryge' (Regulation concerning the status of kinship communities in KMAO), which was followed by 'O mexanisme vnedreniya olozheniya o statuse rodovyx ugodii v Xanty-Mansiiskom avtonomnom okryge' (Concerning the Mechanism for Applying the Regulation concerning the status of kinship communities in KMAO), a Decree issued by the Head of the Administration of KMAO on 27 February 1992 (Status Malochislennyx Narodov Rossii: Pravovye Akty I Dokumenty, (The Status of the Minority Peoples of Russia: Legal Acts and Documents) Moscow: 'Legal Literature', 1994: 310-321). Two forms of national community were au-

thorised: (1) community and corporation, that could organise and invest, and (2) community that organises its own work. The law permitted a portion of all contracts negotiated to be preserved centrally for community-wide needs. Roughly concurrent with this debate in the okrug was the development of a federal law establishing local self-governments alongside the soviets.

The passage of these laws set in motion a legal process of formally defining the boundaries of family hunting territories (rodovye ugodya) and issuing governmental acts certifying that the use rights on these territories belonged to the families living on them. This process was begun quickly enough because, according to Art. 21 of the aforementioned "Regulations", the oil companies seeking access to the subsurface resources in these territories were required to obtain signed releases from the Khanty families before exploration or production work could begin:

Acquiring a parcel of land on the territory of kinship lands [for industrial purposes] can be carried out ...only with the consent of the owner of the kinship land, and also native residents whose interests are involved in this taking. In order to get the consent of native people for this acquisition, a referendum of these native people is carried out, and the results of this is the basis for the administration to make its decision.

Decisions about taking a parcel of land on the territory of kinship lands is made by the okrug administration, in conjunction with the regional administration, after getting written consent for this taking from the landowner and positive results from the referendum of the native people and state environmental approval. (Status, 319)

Art. 22 of the same legislation required a clear economic agreement, approved by the appropriate administrative authority, between the owner of the land and the company developing the land, specifying: (1) the terms and conditions of development, and providing (2) full compensation for all losses in connection with development; (3) an agreed-upon share of the profits from the development of this land, as well as (4) a lease payment for the use of the land (Status, 319). Two months later, President Yeltsin issued the Ukaz "Concerning Urgent Measures for Protecting Places of Living and Economic Activity of the Native Minority Peoples of the North" (Status, 199), also requiring territorial definition and consent before taking. This decree had five main points: 1) the ministers of the republics are directed to: a) define the territories of traditional land use that are part of their national heritage and which cannot be alienated without their consent for industrial or other development which is not connected to traditional economy; b) to transfer without cost to kinship communities and families belonging to the native minorities of the north those lands associated with traditional economy for a lifelong, inheritable ownership or leasing; c) to give priority rights to make agreements and receive licenses for the use of renewable natural resources to kinship communities and families belonging to the native minorities of the north; d) to define traditional territories in order to effect there sustainable resource development; and 2) to the government of the Russian Federation, to work out a regulatory system for the use of lands and resources on the traditional territories of the peoples of the North only with the approval of environmental expertise (Status:199).

Late 1993: An economic agreement was drawn up between 'Maiskneft', working in Ugut, and 15 families in Kinyamino village. It was signed first by the Ugut administrator, which is illegal, and 45 copies were distributed to families, who were convinced by the administrator's signature, that the agreement was a fait accompli. Nevertheless, no one signed, and the copies were returned to the village administrator. Only then did a legal process follow where people signed first, then there were administrative signatures. In exchange for exploration and drilling rights, Kinyamino families were promised as compensation: (1) new winter and summer houses; (2) buran, motor, and two tons of gas/year; (3) 100,000 rubles/person/quarter; (4)new clothes; (5) paid university education; (6) radio-telephone and electricity; and (7) access to low-price company grocery store. All they got were burans, then they begged for rubles, clothes. They drank all their money and never went to the forest that winter.

1993-94: The 1992 law on kinship communities provided that only communities holding governmental acts on the land could join together into larger communities. On the Yugan, however, acts were only issued to eleven small communities (extended families), much less than the number of territories mapped and family-communities identified. That would soon become a moot point. Surgut Region administration quickly ceased to issue new acts on the land for the remaining families, and in 1994 an administrative decree from the KMAO head, Filipenko, unilaterally voided those acts already issued.

Shortly thereafter, KMAO (cancelled) all acts on native lands, claiming that Moscow had said the the laws were not in the correct form. The okrug administration, headed by A. Filipenko, also required re-registration of national communities. Filipenko promised to form a commission to review the law on national comuntiies, but the commission was never formed.

June 1994: The concept of applying for Biosphere Reserve status to link the territory of Khanty traditional living with the Yuganskii Zapovednik is first discussed among leaders of the Yuganskii Khanty people and the Khanty community "Yagun Yakh".

1995: On March 6, 1995, the head of Surgut Regional Administration, Sarychev, based on Filipenko's decision, issued a decree ("O statuse rodovyx ugodiiv Khanty-Mansiiskom avtonomnom okruge", Document No. 21) asserting, in contradiction to general state law on native land, that Khanty people who have houses in villages shouldn't have a family hunting territory. People do live in villages, but hunt, fish, and otherwise support themselves with their hunting territories.Those Khanty who had been forcibly relocated or who had voluntarily removed to villages at an earlier time were thus summarily declared to have no right to use lands on which they still hunted and fished in order to feed their families. The decree caused such a wave of protest that the administration delayed its im-

plementation. The fate of the decree is unclear: on the one hand, it has not been cancelled; on the other, it has not been enforced.

In the summer of 1995: Yugan Khanty community leaders approve going ahead with the process of trying to establish a Biosphere Reserve as a way to protect their land.

July 1996: An official of GOSKOMSEVER, Deputy Minister Anatoly I. Volgin, visits Khanty-Mansiysk, Surgut and Ugut, where he discusses the proposal of the biosphere reserve and receives verbal assurances of agreement from the head okrug administrator (Filipenko), whose only condition is that existing licensed territories be excluded from the proposed Biosphere Reserve. To facilitate planning, the okrug administrator orders the Surgut administration to provide a map of existing and projected license areas in the Yugan basin. From regional and village adminstrators, as well as from the zapovednik staff and the Khanty community in Ugut, the GOSKOMSEVER official also receives assurances of support. An ethnographic team (the authors of this article) commissioned by GOSKOMSEVER travels throughout the region collecting signatures from Khanty families who want to establish Biospher Reserve. Not one is opposed, even among those in Kinyamino who had signed the earlier "Maiskneft" agreement. They have only two questions: Can we keep out oil companies? and Can we still hunt and fish in the traditional way? The ethnographic team is also charged with drawing up reasonable boundaries that would exclude existing license areas.

Late July 1996: The Khanty and the zapovednik staff, working with the ethnographic team, are shocked to discover from the map provided both the number and size of licenses. Many of the parcels were apparently licensed without the consent or even knowledge of local Khanty families whose lives they will ruin or the Khanty leaders of the "Yagun Yakh" community. This is certaily true of the "Ledyanoe" parcel, which was tendered without the knowledge or approval of the Kaimysovy family, and the "Chietinskoye" parcel, which was apparently licensed based on the signature of the extended families that live on the territory but not the others. A part of one licensed territory apparently extends inside the south-eastern boundary of the zapovednik.

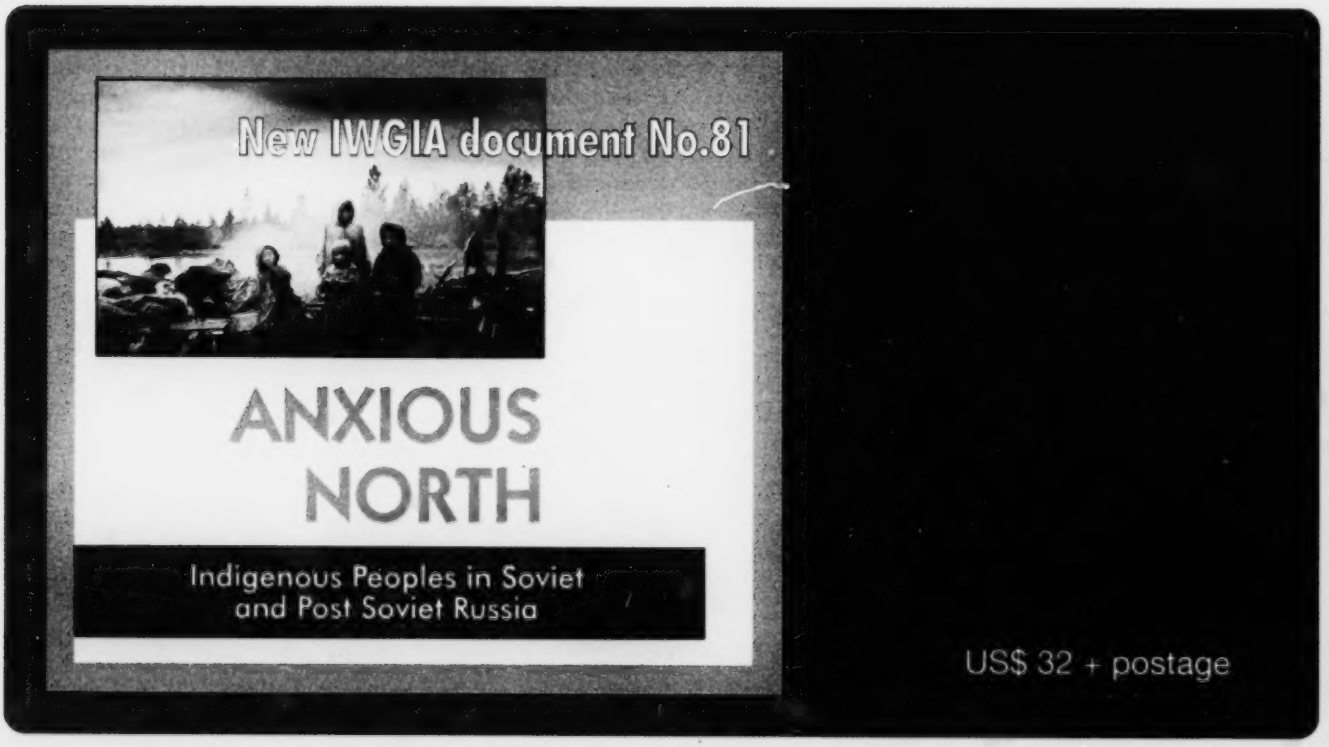
December 1996: The "Unt'neiskaya Kulunskaya" parcel on lower Bolshoi Yugan is scheduled for tender.

February 1997: The administration of Khanty-Mansiiskii Autonomous Okrug was again preparing to tender parcels of land for oil development in the basins of both the Malyi Yugan River ("Achimovskoye") and Bolshoi Yugan River

("Multanovskoye"), land historically and currently occupied by Khanty families and officially identified early in the 1990s as family hunting territories, without the knowledge or consent of the Khanty families involved or the consent of the Yagun Yakh community.

It thus appears that, in direct violation of Russian Federal law and international protocols: 1) Parcels of land generally have been tendered for oil production, depriving the Khanty people, who survive by subsistence hunting and fishing as well as the sale of furs harvested on their territories, of the only means of supporting their families, and without the knowledge and consent of the Khanty landholders, in apparent violation of the law, without the knowledge and consent of those native people interested including the community "Yagun Yakh", in apparent violation of the law; 2) the "Tailakohovskoye" license includes a portion of the terrotry of the Yugan Zapovednik, in apparent violation of the law; 3) the process for securing the 1993 Maiskneft agreement, though ultimately corrected as a result of watchdog efforts by local activists, reflected, as initially begun, an attempt to intimidate Kinyamino residents with a fait accompli, again in apparent violation of the law, concerning the process for securing agreements; 4) the recent schedulings for tender of "Achimovs-koye" and "Multanovskoye" parcels represent a deliberate strategy to subvert the expressed will of the Yuganskii Khanty to preserve their hunting territories as a Biosphere Reserve, as was made known to the village, regional and okrug administrations, by selling as much of their land for development as possible without the Khanty's prior knowledge or consent in order to make the proposed Yuganskii Khanty Biosphere Reserve territory so broken up as to be unsuitable for Biosphere Reserve status; and 5) the recent schedulings for tender of "Achimovskoye" and "Multanovskoye" parcels were not undertaken according to the procedure defined in the recent environmental law approved by the Duma in December, 1995, requiring independent ecological and ethnographic expertise.

Taken together, this history suggests a pattern of deception and illegality driven by solely by profit for the purposes of denying the rightful claims of the Khanty to control the use rights to their family hunting territories and to deprive them of the means of their knowledge or consent and in repudiation of the publicly expressed will. This, for a subsistence culture, amounts to ethnocide. ❑



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Cover: *Panama: Kuna children - Photo: Mac Chapin*

Editorial

'I would love to open up the charter of the United Nations' said one indigenous representative during the second United Nations' workshop on the establishment of a permanent forum for indigenous peoples. It was held in Santiago, Chile, on 30 June to 2 July, 1997, and the Chilean government was the host. As is known to all who have followed the work within the UN for securing indigenous peoples' rights, there are two issues of main importance: the one being the adoption of the declaration on indigenous peoples' rights, the other one being the establishment of a permanent forum. The first workshop on this was held in Copenhagen in 1995, and the decision to hold a second workshop was taken in a resolution adopted by the Commission on Human Rights at its 53rd session this year.

The second workshop discussed the scope, mandate and placement of the permanent forum, and the job carried out by the 25 indigenous and 25 government representatives plus independent experts and a few non-indigenous NGOs was in many ways a concrete and practical one with the clear purpose of arriving at a precise idea as to the form and content of such a forum.

The statement about opening up the UN charter expressed a wish to make the Charter explicitly deal with peoples who are not states, but collective entities with the right to self-determination. Those thousands of peoples with different cultures and languages were peoples before this concept acquired its present international juridical meaning and were not taken into consideration when the UN was created in 1945. In other words, those peoples who today call themselves indigenous.

The indigenous legal expert who said it was very well aware of the utterly utopian character of her wish, as were all the other participants. The United Nations is in the middle of a reform process, but this certainly does not imply a revision of the whole fundament as expressed in the charter. This is in spite of the fact that many right-minded members of the UN may have realised the lack of justice in the present structure, which leaves out those that were organised into collectives with a specific social organisation, leadership, culture and well-defined territories long before the creation of those 185 entities called states, that now form the world community organised in the United Nations.

The UN is being reformed with the purpose of saving money - mainly on the initiative of the most powerful member of the 'family', the United States. The United States owes millions of dollars to the UN and has refused to pay the bill until a reform has been carried out. The new Secretary-General of the UN, Mr. Kofi Anan is having a hard time living up to the demands of the UN. And as badly founded as the demand for reform may be, the UN is forced to accept it in order to acquire its rightful contribution from the richest country in the world.

All this has implications for the situation of the world's indigenous peoples. The objections to the formation of a permanent forum within the UN come from among others the United States, with the main argument that it is too expensive and goes against the objectives of the reform and rationalisation process. At the Chile workshop, however, almost all the other participants agreed to regard the creation of a permanent forum as a constructive part of the reform process, rather than another expense-demanding initiative. But money was not the most important of the issues discussed. The talks centred around the form and struc-

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by Inger Sjørslev

ture of the forum, the mandate, indigenous peoples' representation, the link to other UN institutions, the significance of such a body and the further process of negotiating this within the UN.

The results of the meeting can be found in the official UN document E/CN.4/Sub.2/AC.4/1997/CRP.1. As attachments to the report, the members of the UN General Assembly, who will take a stand on this at the next meeting, will find a number of important papers including the so-called Temuco Declaration. An indigenous meeting was held in Temuco, Chile, on 6-8 May, organised by *Consejo de Todas las Tierras* (All Lands Council) and with technical assistance provided by IWGIA. This was a very successful meeting with a number of indigenous representatives, mainly from South and Central America. The resulting declaration can be found at the end of this editorial, and the indigenous views reflected here were much referred to in the official UN meeting, which appreciated this useful preparation for the talks.

This issue of *Indigenous Affairs* further presents a number of local occurrences in the indigenous world, this time with some emphasis on South America. A most instructive case of indigenous and national politics and the often complicated relation between the two is represented by the results of the recent elections in Bolivia and the interesting process leading up to the results. It clearly demonstrates the difficulties confronted by an indigenous organisation that attempts to form an alliance with a political party. This case reminds us that taking part in politics has to take into consideration the specific conditions of the indigenous peoples in a country. In Bolivia the constitutional reforms in 1993 and the recognition of the multicultural character of the country means that Bolivia has accepted the political participation of its indigenous population, and the indigenous movement of the lowland indigenous peoples, organised in CIDOB, is a strong one. However, the election and the recent political processes show that there is still a long way to go before indigenous rights are truly recognised by non-indigenous political parties. Also, there are a number of very concrete problems. In Bolivia 81% of the indigenous population is without the documentation necessary for taking part in the electoral process. Furthermore, the analysis of Ruth Llanos and Mamerto Pérez shows that the election pattern of the indigenous peoples is determined by tradition, pragmatism and unequal relations with *patrones*, the landlords who have traditionally made decisions on behalf of the indigenous workers.

The Kuna of Panama are struggling to avoid the placement of a naval base within their territory, while recognising the necessity to create such a base in order to guard national security and to combat the presence in the area of guerillas, paramilitary groups and drug dealers.

In Argentina one modest demand of the indigenous peoples is that they maintain the right - given by the laws that prohibit discrimination but are not respected in reality - to give their children indigenous names.

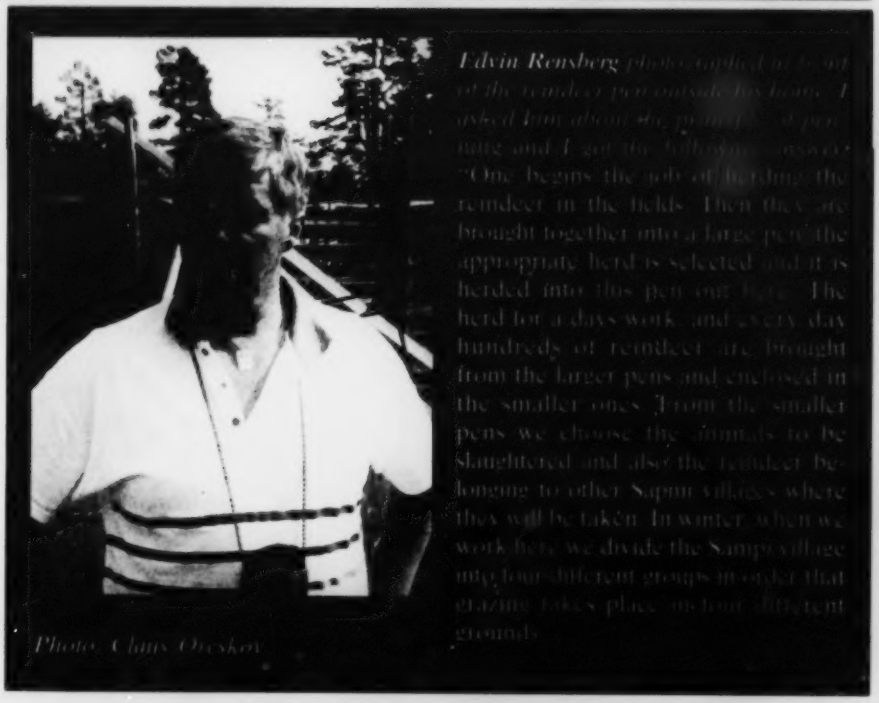
The case of Galdino, a Pataxó who came to the Brazilian capital to claim the land rights of his people and was assassinated by a group of middle class youngsters in the most gruesome way reveals with tragic clarity the general arrogance, incredible stupidity and lack of respect for other human beings that is unfortunately part of some middle and upper class attitudes in this country. It is depressing to think that it is necessary to remind parents and teachers that children and young people should be taught the very basic rules of respect for human life and other people's integrity, and this in a country that claims to be democratic and founded on Christian values. It is shocking to know that young people, who have gone to school and had more chances and material well-being than most Brazilian citizens need to be taught the inviolability of another human being, regardless of social and ethnic status. The fact that the group of young middle class persons who were the culprits of the horrible deed that took the life of Galdino Pataxó said they thought the living creature, on whom they chose to practice their sadism, was not an Indian but 'a poor man' only adds to the tragedy and the appalling nature of their act. It is the general lack of respect for human lives and human rights regardless of wealth and social status that also affect the indigenous population in Brazil when they fight for their basic rights, whether they are Pataxós or the Yanomamis, who, again, face the life-threatening consequences of encroachment upon their land by gold-prospectors, after the government has stopped the surveying of the area. Much has been done in Brazil to protect the territorial rights of the indigenous peoples. But this has taken place more on paper than in reality, and even on paper there is still a long way to go in this extremely rich country that could easily afford both to give the indigenous population their basic rights and to improve the lives of the millions of poor. This will come about only on the condition of a radical change of attitude in that part of the upper and middle class that create creatures able to commit inhuman acts like the one done to Galdino by the ignorant, spoiled boys from Brasilia.

As the *Consejo Indigena de Roraima* says, 'We peacefully claim the right to

Sápmi

A Glimpse of Edvin Rensberg

by Claus Oreskov



Edvin Rensberg photographed in front of the reindeer pen outside his home. I asked him about the grouping of reindeer and I got the following answer: "One begins the job of herding the reindeer in the fields. Then they are brought together into a large pen, the appropriate herd is selected and it is herded into this pen out here. The herd for a days work, and every day hundreds of reindeer are brought from the larger pens and enclosed in the smaller ones. From the smaller pens we choose the animals to be slaughtered and also the reindeer belonging to other Sápmi villages where they will be taken. In winter, when we work here, we divide the Sámi village into four different groups in order that grazing takes place on four different grounds.

Photo: Claus Oreskov

In the southernmost part of Sápmi (the Sámi country), to be more precise, in Härjedalen and Dalerne, the last few years have been the scene of violent struggles between the *Sámi* reindeer breeders and the landowners. Over the last few years this conflict has resulted in the sentence passed by the Court of first instance in Sveg, rejecting the historic common-law right of the Sámi to the grazing lands. I met Edvin Rensberg, president of the Sámi village of Tännäs, one of the five Sámi villages in the area involved in the situation. Edvin Rensberg had just finished branding the calves, which is carried out in the month of July. Although the branding is over, Edvin Rensberg is still a very busy man, committed to union and political work in the Sámi village and in the Sámi Parliament, elected by the people. However, he found time for an interview, and we talked together in Rensberg's kitchen, over a cup of coffee and dried reindeer meat.

Claus Oreskov (CO): *How is reindeer breeding organised in Sámi villages?*

Edvin Rensberg (ER): Reindeer breeding is organised on the basis of existing legislation. There is a law on the breeding of reindeer which points out the way the Sámi villages should be organised. The work is directed by a board and a president. Reindeer are bred collectively. We have 9 production units, which in fact means 9 families making their living exclusively from reindeer breeding.

CO: *Are the production units the same every year?*

ER: They normally do not change; only if there is a generational change, that is, if parents retire and the young people take over.

CO: *How do you use the different grazing lands over the year?*

ER: Reindeer breeding belongs to the food area, so we use relatively large geographical expanses. The grazing lands for the summer reach the Norwegian border, and in winter we move 100 kilometres east to the forest lands and we reach up to the Oesterdal River, as far down as Dalerne. We have the reindeer graze in a nort-west, south-east direction.

CO: *Do you use the same grazing lands every year?*

ER: The same lands are used year after year, but different parts are used depending on the time of year. In summer we are high up, in the high mountain lands, because it is too warm for the deer in the forest, and that is where they calve. And in the autumn we begin our downward migration.

CO: *Are the grazing lands you use now the same your ancestors used, or are they of a different size?*

ER: Some changes have taken place as society developed. When I began to raise reindeer, we used well-defined grazing grounds, but these cannot be used anymore because of tourism, etc.

CO: *Do you mean you have lost part of your grazing ground?*

ER: Yes, it has been reduced.

CO: *Would it be possible to expand reindeer breeding in Härjedalen?*

ER: No, there is no possibility, on the contrary. That is, the grazing grounds will be so small that we will have to reduce the number of reindeer. This means that there will be fewer people making a living in this way.

CO: *Is reindeer breeding a full-time job or can it also be a seasonal job?*

ER: Rationing has meant that here in the Sámi village, nine of us work full-time raising reindeer. Other members of the family, wives, for instance, have other jobs to supplement incomes.

CO: *Was that a reindeer slaughterhouse I passed on my way here?*

ER: Yes, an old slaughterhouse, but the modern regulations of the European Union for the handling of food-supplies have made it unacceptable. [Sweden became a full member of the European Union in 1997]. Now we have to take our reindeer to a slaughterhouse approved by the EU, about 300 kilometres from here.

CO: *What is the significance of reindeer breeding for the identity and culture of the Sámi peoples of the south?*

ER: All the Sámi culture is based on the reindeer and without them, it will disappear.

CO: *Are hunting and fishing important for your subsistence?*

ER: Yes, it is very important for Sámi subsistence, as a supplement to reindeer breeding.

CO: *I would like to talk about the conflict existing here in Härjedalen between the Sámi reindeer breeders and the landowners.*

ER: The real cause is quite difficult to explain, but the landowners brought legal action against us through the First Instance Court in Sveg, and in the request for legal

action they stated that the Sámis had no legal right to enact the common law rights to grazing rights on private property lands.

CO: *What effect does the conflict have on your everyday life, financially and mentally?*

ER: Above all, what is most difficult in the legal work is to present concrete proof and written documents for a period in time when no written documents were kept, so the problem is to prove that reindeer breeding has been a historical fact, and common law rights. The problem is to present documents which in fact do not exist, and so it is difficult to prove that we have the right to grazing grounds at a Court. This is mental pressure. We felt the consequence of the sentence passed by the Court as financial pressure, because as we lost the case, we were obliged to pay the costs: ours and the counterpart costs. The total amount at the First Instance Court is 10 million Swedish crowns. We obtained a loan of 8 million crowns to pay our costs. We also had to get a loan of 4 million crowns to pay the landowners' costs. What remains we still owe to the National Association of Swedish Sámis (SSR), of which we are members. We have not been able to finance this amount yet. Financial problems are also mental pressure because, how are we going to solve them? At the same time the legal action continues at the Regional Court.

CO: *Were there any Sámi villages which lost winter grazing grounds as a result of the sentence from the First Instance Court?*

RE: If the result of the Sveg sentence is kept, if it is ratified, it will mean that all the Sámi villages in Härjedalen will lose their winter grazing grounds.

CO: *Is it true that the case is at the Regional Court?*

ER: The appeal was presented at the Regional Court, so the sentence has not yet been ratified. If we lose at the Regional Court and at the Supreme Court, the result would be that apart from costs we would have to pay for damages (for using the grazing grounds) as from February 1996, when the Sveg sentence was passed.

CO: *If you cannot get hold of all the money you need, is it the Sámi villages in Härjedalen that would be liable for the sum?*

ER: Probably the Sámi villages would have to declare themselves insolvent. I can see no other way out today, if we can find no other form of financing the amount. We are at present trying to obtain some other financing, but we are not sure if we will get it.

CO: *Is there a political solution to the conflict ?*

ER: The problem with a political solution is that it is very difficult to implement while the appeal is ongoing. The Swedish government had the possibility of implementing political solutions before the trial in Sveg, but the presupposition was that common law rights existed and that there was no need for a political solution.

CO: *You said you are members of the SSR. What does it signify to the Sámi villagers, to be members of an organisation of such great interest?*

ER: Through the SSR we get the support of the other Sámi villages in the country, and we have the possibility of informing, on an international level, through the SSR, about what is going on here. In this way it may be possible to obtain international solidarity to pressure for a political solution if we lose the cases.

CO: *Can the Sámi Parliament help you in this?*

ER: What they can do is to put pressure on the government, but at the same time it is accepted that it is difficult for the government to get involved because it means taking sides, whatever they do. At least it can be interpreted this way. So that the only help the Sámi Parliament can give at this moment is to find some financing source to pay for the costs of the case.

CO: *What can ordinary people do to support the Sámis in this?*

ER: We have opened an account and we put out a call for economic aid, which is what we most need today, to be able to bring our case to the higher courts.

CO: *Do you know when the case will be tried again?*

ER: At this time we calculate that the case will come before the Regional Court at the end of 1998, and then another 3-4 years will go by before it reaches the Supreme Court.

CO: *So you will be living in a state of uncertainty for the next years?*

ER: Yes, I think we will be living in a state of uncertainty for the next 10 years, until the case has been ruled by the Supreme Court. If we lose the case there, we will be obliged to put the case to an International Court.

CO: *What does this mean to young people who know the case, will they continue breeding reindeer?*

ER: As the case has put such strong mental pressure on us, it is difficult as a parent to encourage our children to breed reindeer when the future is so uncertain. The risk is that if you have a son of 20 who is going to choose his profession for life, should we support his becoming a reindeer breeder, or his trying to make it in Swedish industry? The question is whether one dares advise children to breed reindeer when the answer will be known in 10 or 15 years and then one may have given the wrong advice. It is difficult to live with this uncertainty, and at the same time one lives with hope that reindeer breeding will survive.

CO: *Is there anything you would like to say that I have not mentioned?*

E.R.: As to receiving support and international solidarity, we are working to establish a "paternity" whereby the outside world might adopt our reindeer, and in this way we would receive an economic contribution to continue with the case.

After a short conversation we found ourselves talking about who arrived at Härjedalen first, the Sámis or the Swedes, and who the real owners of the land are, and then Edvin Rensberg came up with a comment which calls for reflection: it is very difficult for me to understand how someone can in fact own the land. Seen from the point of view of reindeer breeding, if anyone is the owner of the land it must be the reindeer; they should own the land on which they roam, and they were here before human beings.

CO: *Those who say they own land, have they got a mistaken idea about nature?*

ER: Yes, I think that it is a mistake to consider nature this way, but everyone says that civilisation has arrived, so I think that civilisation then behaves in a very uncivilised manner.

IWGIA encourages the support for the fund that the Sámi villages have organised to carry forward the legal process and the cultural struggle. This can be done through direct financial support or by organising ad hoc groups, to organise different activities to collect money and report on the situation of the Sámis in Härjedalen. Contributions can be sent to: "Fonden for den sydsamiske kultur" (Fund for the culture of the southern Sámis), Swedish postal giro No. 375164-1. ❑

INDIGENOUS PEOPLES, MULTINATIONAL CORPORATIONS AND HUMAN RIGHTS

By Robert K. Hitchcock

The push for so-called free trade and shifts in global political economic systems has resulted in the concentration of wealth and power in the hands of a few hundred corporate giants, many of them bigger than most sovereign nations. These multinational corporations (MNCs), international business enterprises (IBEs), or trans-national corporations (TNCs) are, as Barnet and Cavanagh (1994:15) note, 'the first secular institutions run by men (and a handful of women) who think and plan on a global scale. Multinational corporations as complex institutions control vast amounts of capital, labor, natural resources, and information'.

Eighty per cent of foreign investment is done by some 500 multinational corporations, which together control 70% of world trade and 30% of the world's Gross Domestic Product (GDP). A sizable number of nation-states, including some of the least developed, are dominated economically by multinational corporations. In many of these countries, decision-making is influenced heavily by corporate elites. A problem facing the citizens of nation-states is that the protection of human rights and the environment is in the hands of states and multilateral institutions such as the United Nations, whereas corporate interests sometimes focus on profit-making and resource extraction, often at the expense of local people and the habitat.

As indigenous peoples and others living in those areas where multinational corporations are operating note, the companies often put their own interests ahead of local people and governments. The common perception among indigenous peoples about multinational corporations is that they control vast resources and global channels of communication and thus they have tremendous effects on even the remotest habitats and human populations.

In October, 1995, I was working on issues involving resource rights among indigenous populations in the northwestern Kalahari Desert region of southern Africa when I spoke to an elderly Ju/'hoan man about hunting. This man, who was sitting in the sand and sharpening a poison arrow, looked up at me and said, 'Well, do you think OJ's guilty?' Today it is common to see adults and children in the savannas of Africa, the rain forests of the Amazon and southeast Asia, and the tundra of Siberia wearing T-shirts with Mickey Mouse on them, drinking Coca-Cola, and watching CNN and M-TV. When asked whether or not they like what is happening as a result of the globalization of trade and communication, indigenous people often reply that they definitely appreciate having greater access to goods, technology and information but that they are concerned about the negative social, economic and environmental effects of multinational corporations and global business activities. This was the case with the Kua San (Basarwa, Bushmen) of the Orapa area in the eastern Kalahari region of Botswana who were required to move out of their traditional territories when a diamond mine was established in the late 1960s by De Beers, part of Anglo American.

Indigenous peoples' advocacy organisations and grassroots groups have been holding forums on the impacts of transnational corporations since the late 1960s. In 1981 the World Council on Indigenous Peoples (WCIP) identified multinationals as 'the most immediate and serious threat to the survival of Indigenous Nations of the Fourth World' (Burger 1981:16). A report on trans-national corporations by the United Nations Transnational Corporations and Management Division (UNTCMD) in 1993 noted that indigenous nations were being harmed more often by private companies than they were by governments (UNTCMD 1993). Some indigenous leaders have stated in international

forums on indigenous rights that multinational corporations have become 'the agents of genocide and cultural destruction.'[1]

Today, multinational corporations are engaging in resource extraction and business activities in some of the world's most remote regions, often with little or no regard for their impacts on resident groups and the environment. Some of them receive significant support from governments and international finance institutions even though they employ oppressive tactics and are harming the habitats where they are operating.

According to representatives of indigenous groups speaking at international meetings on human rights, those peoples defined as indigenous have experienced mass killings, arbitrary executions, torture, mental and physical mistreatment, arrests and detentions without trial, involuntary relocation, and destruction of their subsistence base at the hands of not only the state and individuals but, increasingly, multinational corporations. The pace of destruction of indigenous peoples has risen substantially in the latter part of the 20th century, in spite of the fact that international indigenous rights standards have been established to try and counteract discrimination against and mistreatment of these populations (Burger 1987; Hitchcock and Twedt 1995).

Several major events in the past few years have led to a significant increase in interest in issues involving the impacts of multinational corporations on indigenous peoples. One event was the impact of American and other oil companies on the Huaorani (Waorani) of the Oriente Region of Ecuador, described by Judith Kimerling in her book *Amazon Crude* (1991). The effects of oil companies such as Conoco, Texaco, and Maxus on the habitats and people of the Oriente ranged from massive pollution from oil spills and the dumping of toxic wastes to dispossession and intimidation of local people (Rival 1993; Jochnick 1995; Kane 1995).

A second event was the Zapatista uprising in Chiapas, Mexico, on January 1, 1994, a political movement linked by its initiators to the passage of the North American Free Trade Agreement (NAFTA). Zapatista leaders cited the failure of the government of Mexico to deal with problems caused by changes in land tenure and declining socio-economic status of indigenous groups, including the Lacandon Maya. The Chiapas case provides us with an excellent example of the attitudes of so-called free traders. A member of Chase Manhattan Bank's Emerging Markets Group, Riordan Roette, made the following comment about the Zapatista uprising:

> *While Chiapas, in our opinion, does not pose a fundamental threat to Mexican political stability, it is perceived to be so by many in the investment*

tlers, underwent separate negotiations with the government about the terms of the new law, obtaining recognition of some of their fundamental demands with regards to land and territories.

Meanwhile, the peasants and the settlers, unwilling to negotiate under the conditions offered by the government, brought over 300,000 marchers to the city of La Paz in a massive mobilisation that had not been seen since the 1950s, when the Revolution of 1952 convened thousands of men and women working in agriculture. The political and social situation of the country would have been be different if the 2,000 indigenous marchers of the organisations of CIDOB had joined the others.

The rupture between the indigenes of the east and west was skilfully utilised by large landholders in the country as well as by the government, which finally approved the INRA law, introducing factors of tension and distance among the indigenes of both regions.

Similarly, the situation as it stood during and after the march allowed the national press and the government itself to project a positive image of CIDOB, and especially its president, Marcial Fabriciano, highlighting his qualities as a negotiator, a conciliator and a leader. This image, at least during that period, was promoted by the government to discredit the Aymara/Quichua indigenous movement and its leaders, who were called intransigent, irrational and politicised.

Perhaps this positive image of CIDOB contributed to the assessment of its leaders and advisors that they had sufficient backing by national public opinion not only to take part in the elections but also to build a presence in the west.

The decision for electoral participation

The initial decision regarding CIDOB's participation in the 1 June presidential elections emerged from a Consultative Assembly carried out from 14-16 December, 1996, in San Ignacio de Moxos. Although political participation was on the Assembly's agenda, the majority of organisations hoped that the central topic would be an evaluation of the results of the march and of the negotiations concerning the INRA law.

Based on this understanding, some organisations began to make criticisms about the lack of enforcement of the approved deadlines established by the government with regards to the agreements on the titling of territories and the new original community lands. Thus, it was quite surprising and the cause of confusion when people realised that the central topic turned out to be a discussion concerning political participation.

Not dealing with territorial defence at this event nor in the electoral campaign turned out to be counterproductive in the long run, since it could have been a unifying element for the different political positions maintained by communities and peoples with diverse languages and identities.

During the discussion on the defence of the political issue, to the surprise and confusion of the assembly members, the use of new terms introduced by the new electoral law such as 'circumscription', 'uninominal', 'multinominal', etc was added.

The scarcity of questions and comments by Assembly participants demonstrated that the decision about electoral participation was not sufficiently understood nor analysed, and was marked by a gap in the discussion between the more experienced and influential leaders of the movement and the majority of the delegates.

The participation of external advisors of CIDOB was also decisive. Through long speeches that were not very clear to the majority of the delegates, they presented arguments to try to convince the indigenes about the possibilities and alternatives of obtaining positions in the executive branch, in the vice-presidency, as uninominal and multinominal representatives in congress, and in circumscriptions where the indigenous presence is the majority.

After deciding in favour of political participation with little debate, the plenary approved the formation of a National Commission on Political Participation as a representative and negotiating body.

The moment of great doubt and fear

Another Consultative Assembly was convened from 4 to 6 February, 1997, exclusively to define the electoral strategy, the parties with which an alliance could be established, and the leaders that were to be candidates. The national expectations provoked by CIDOB's decision and the successive meetings held between the National Commission on Political Participation with all the political parties of both the right and the left, led to much interest in the outcome of the second assembly by both the national press and some political parties. However, the event lost its transcendence for two reasons. On the one hand, some delegates raised again the issue of evaluating the negotiations about territorial demands, and this time the topic occupied a large part of the days of the Assembly.

On the other hand, once the political issue began to be discussed, and various indigenous leaders and their advisors began to tell participants of the need to build alliances with a 'winning' party, voices emerged that were not heard at San Ignacio. Perhaps in the face of a more complete understanding of the significance of the political decision taken on, many delegates, for the first time, expressed their doubt, uncertainty, fear, and, in some cases, asked for a review of the decision. The central arguments put forth by the assembly members referred to the existing mistrust of political parties due to their favouritism and their manipulative and segregationist practices.

Also, they expressed that they could not assure that the people they represented would vote massively for CIDOB's candidates, due to the weakness of the movement as well as the multiple party alliances in their communities. Similarly, they considered participation in the current elections to be premature and that it would be better to wait a bit longer in order to be better prepared.

As a way out of the situation, the delegates themselves put forth the need for the topic to be transferred to a consultation with the rank and file in order to ensure the necessary understanding of and commitment to the decision made. This was perhaps the moment of greatest reflection and internal debate within the process of political/electoral participation. However, neither the central leadership nor the advisors were capable of valuing and utilising this moment to consult and discuss with the rank and file. To

the contrary, they argued that resources were lacking for another assembly and that the pressure of the electoral deadlines was present, and thus they obtained ratification of the decision made in San Ignacio.

It must also be pointed out that this assembly revealed the actions of some political parties who through certain delegates tried to obtain a decision in their favour, since to that time the majority of parties had not defined their vice-presidential and congressional candidates.

On the third day, within the framework of an assembly destroyed by the abandonment of various delegations and by fatigue, some voices arose which argued for the convenience of an alliance with the Free Bolivia Movement, MBL, since this party was the only one to have unconditionally accepted all of CIDOB's proposals. This situation allowed for an open assessment of the preferences and perhaps the party commitments of some leaders and delegates, and simultaneous to the proposed alliance with the MBL, other voices emerged leaning towards other parties. In the face of a tendency toward an open division, the event officially concluded without the 'white smoke' hoped for by the media. At this point, the majority of large political parties had already publicly expressed their disinterest in an alliance with CIDOB.

Finally, the definitive decision to form an alliance with the MBL was adopted a few days later in a restricted meeting of the National Commission on Political Participation of CIDOB.

Topics for reflection

As was pointed out at the beginning of this article, the results obtained by CIDOB in this electoral experience are limited, in all senses.

What happened so that even in zones in which the majority population is indigenous, the uninominal indigenous candidates who are from those regions did not obtain at least second or even third place?

Why did the Quichua indigenous people, supposedly marginal leaders in the Bolivian socio-political scene in recent times, achieve much more than CIDOB, despite presenting itself with a party affiliation, the United Left, which was worn down, almost forgotten and even 'satanised' since the enactment of structural adjustment?

Bolivian indigenous peoples of the lowlands were planning on responding to these and other questions in a national congress scheduled for the month of July. However, some national leaders of CIDOB, admitting their failure as a hard defeat, have publicly expressed the reasons for it as related to money. 'We must be frank, we have grown accustomed to taking action based on the use of money and perks in elections,' declared a leader, recognising that the results would not have been different even if CIDOB were allied with other parties.

In the meantime, some Bolivian analysts have already put forth some conjectures and explanations for this failure of CIDOB, practically giving up on the political/electoral future of indigenous

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peoples and their organisations as a lost cause.

The authors of this article believe that beyond criticism or condemnation, what is most needed is the gathering of lessons which enhance progress. Under this premise and without claiming to be exhaustive, some elements are presented in an integral context which might serve as clues to an understanding and an analysis of the results obtained by CIDOB.

Everything indicates that the fundamental error of those who promoted CIDOB's electoral participation from outside the organisation (advisors, politicians, intellectuals close to CIDOB's leadership) and from inside (the historic indigenous leadership) did not perceive and understand the concurrent factors of an issue as complex as political participation in a country like Bolivia and in a movement as heterogeneous as the indigenous movement. Both explicitly and implicitly, these actors voiced their superficial and success oriented reading of the internal conditions of the indigenous movement of the lowlands, as well as the socio-political conditions of the country.

The Bolivian socio-political structures

As of 1993, the socio-political structure of the country was changed when the current government approved constitutional and social reforms. The recognition of the multicultural and multiethnic nature of the country, of traditional authorities of indigenous communities, of their official legal status, their right to intercultural and bilingual education and the process of creating municipalities were elements of the new institutional and legal scenario. Some analysts think that the election of a first national Vice-president of Aymara origins, Victor Hugo Cárdenas, in 1993, is a central antecedent of this process.

In an optimistic reading of the aforementioned process, the apparently decisive reasoning of advisors and intellectuals close to the indigenous movement appears to have been as follows: since 1993, the country is definitively changed, not only due to the reforms and legal instruments which were adopted, but because the country as a whole has accepted indigenous participation in the spheres of political power through its representative in the vice-presidency. However, this participation must be deepened in a linear process. In addition, the indigenous movement of the lowlands is not only a rising and undeniable social force in the country's socio-political scene, but it is also homogenous and strong. Therefore, the taking of not only the vice-presidency but also the national Parliament only depends on the decision of this movement.

In our view, this perception does not recognise that in a country so traditionally and structurally segregationist and colonial towards indigenous peoples, the step of having an indigenous vice-president in the spheres of political power, bastion of the non-indigenous dominant classes, is completely insufficient to affect and destroy those structures. In this respect, it is illustrative to mention the episode experienced by one of the authors of this article when she consulted with a non-indigenous candidate of the CIDOB/MBL alliance about his indigenous peers in the region and he responded, '... I don't know those indios (Indians).' The term 'indio' still carries a deep pejorative meaning.

At this point in history when Victor Hugo Cárdenas is practically on his way out, it would not be unusual for his presence in the vice-presidency to be registered more as that of a good statesman rather than as a representative of the Bolivian indigenous people, highlighting his ethnic origins more as an anecdotal fact than as a recognition of the right of indigenous peoples to political participation. Consequently, to automatically assume that the election of Victor Hugo Cárdenas originated in or responded to a change in national political power is at least an exaggeration.

Therefore, it seems it will be necessary for intellectuals, analysts, advisors and those of us who accompany indigenous peoples to reread the national reality and to resituate these events in order to be able to explain what happened with the electoral intentions of CIDOB and the future of their political participation.

The internal conditions of the indigenous movement - the myth of the 150,000 votes

Another grave error was the lack of awareness or the superficial manner of dealing with the internal conditions of the indigenous movement represented by CIDOB. This misunderstanding is the only possible explanation for the fact that the most influential advisors have argued to the parties with whom they were negotiating, as well as to the indigenous people themselves, the myth of the 150,000 captured votes that CIDOB could supposedly count on. To begin with, the total of 150,000 indigenes in the lowlands does not equal the same quantity of votes. Secondly, they are dispersed among an area of approximately 700,000 square kilometres, unable to communicate among themselves as peoples due to factors of geography and language. Thus, in practice, CIDOB serves as more of a representative body than an organisation that integrates these peoples. Thirdly, the majority of the indigenous population does not exercise its rights as citizens because they lack identification papers. The indigenous census of 1994 established that 81% of this population was undocumented.

In these conditions, to attempt to develop an electoral campaign that is more or less effective would be expensive and hardly profitable for any party in electoral terms. This is even more true for the CIDOB/MBL alliance, which was one of the most modest with regards to access to financial resources.

Multiparty alliances among the indigenous

Indigenous peoples are not only multilingual and multiethnic, their members are also 'multipartite' whether it be for reasons of tradition, pragmatism or imposition by bosses who try to decide how their peons will vote. For more than three decades there has been a loyal vote by one indigenous element for the nationalist party that decreed the agrarian reform. This was put forth repeatedly by the delegates who attended the assemblies. In addition, the brief experience in organising and lack of resources induced leaders to accept money from parties who 'buy consciousness with small gifts and lavish treatment', as stated by a leader of CIDOB.

Ruth Llanos and Mamerto Pérez are a part of the Dutch organisation SNV in Santa Cruz, Bolivia. ❑

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by Atencio López

Background and history of Puerto Escocés

The establishment of a naval base in the Kuna Yala region in order to combat international drug-trafficking has provoked a polemical debate in Kuna and Panamanian public opinion in mid-1996 and the start of 1997. Puerto Escocés, a historical site, is the area in question. Between 1697 and 1700 Scottish adventurers attempted to establish a base of operations there for world commerce. The name, therefore, comes from the unsuccessful Scottish colony which a group of Scots tried to establish in that remote region of Panama in the seventeenth century.

It is located 18 nautical miles from the town of Puerto Obaldía (inhabited by black non-indigenous people, but within Kuna jurisdiction) at the border with Colombia in the place known as Kipin Murru. At this same site the first colonisers created the first Spanish settlement in Abya Yala (the 'American continent' in the Kuna language), known as Acla or Diuar Aila, Diuarnak or Uagamait (this last word means 'where the bodies of the foreigners rest') be they Spanish, Scottish or others. At any rate, we are speaking of a site which is considered by the Kuna people to be historical patrimony. It is rich in archeological finds and culture, as it was here that heroic acts to defend their culture took place.

More recently, during World War II an American military base was built in the area to help allied troops to defend vulnerable positions on the Isthmus of Panama.

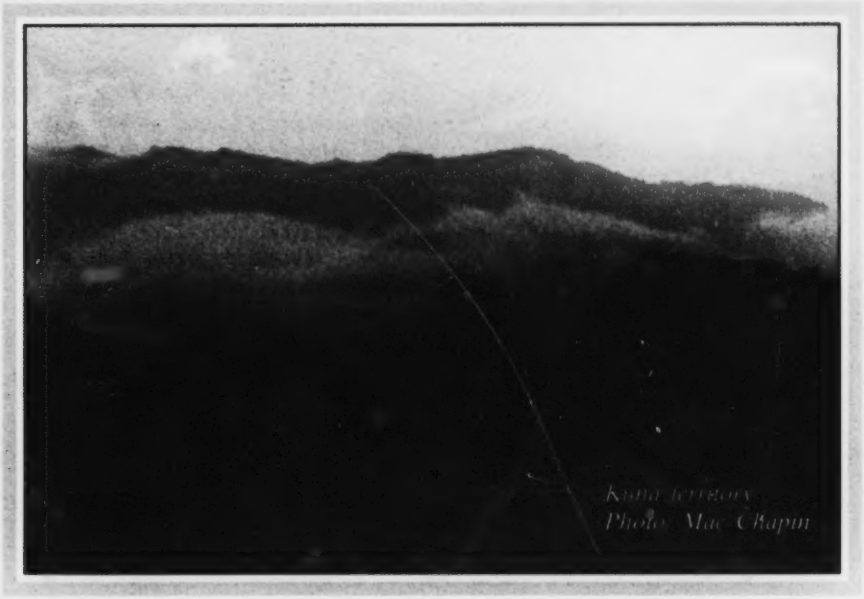
In the 1950s and 1960s there was a company which, under the supposed interest of developing the fruit industry (plantains and bananas) along the Membrillo River, Darien, wanted to export the product through Kuna Yala, at a time when the existence of certain minerals in the environs was known. The administrators of that business were Dutch and what they were involved in was stock-market speculation abroad. The result was that a useful infrastructure in the area around the plantation and the port was never built.

In the 1970s and '80s the military facilities abandoned by US troops after World War II were used by the Panamanian National Guard and the now dissolved Defence Forces as a security post for Dutch, Scottish, English and North American expeditions which carried out historical-scientific research on the vestiges of colonial settlements and sunken vessels.

At the present time this region belongs to the Kuna people. The majority of the Kuna population lives in the communities of Sasardi Muladub and Sasardi Nuevo where they have coconut, plantain and other types of plantations. Moreover, it is an area rich in fish and also houses a provisional camp which the Kunas use to spend the night when they go on expeditions to fish or to gather food from the mountains for several days at a time.

Seen from the air the area appears to be a paradise of crystal water and green vegetation in the background - an ideal paradise for tourism or enjoyment of nature. Nevertheless, there are other plans for the area. According to the government a naval base is planned for this former military port in order to combat illegal activities taking place in that unprotected part of the country such as drug-trafficking, weapon running, illegal immigration and incursions by armed groups (military forces, paramilitary groups and Colombian guerrilla groups operate nearby and after armed confrontation between them cross the Panamanian border and take refuge or resupply in the area).

In the proposal, the Panamanian government would build up and establish the necessary police force, while the United States government would arrange the financing (so far there are no exact reports about the sum to be invested but there is talk of US$ 2 to 5 million). The political and 'lobby' work with the Kuna authorities and villages would be carried out by the Panamanian government who, basing their arguments on the doctrine of national security, tried to convince them to accept the naval base. At first, seduced by the possibility of employment, cash flow and in fear of the presence of Colombian drug-traffickers, the Kuna communities showed their approval for the project.



At the beginning and middle of 1996, right when the discussions between the government and Kuna General Congress (the uppermost indigenous authority in the area) were taking place, ambushes and threats by guerrilla forces or drug-traffickers in the area increased and were compounded by an increase in armed robberies of some goods belonging to the Kuna people as well as death threats directed at Kuna leaders by paramilitary groups. Many of these actions are expected in a conflict area, but some of the threats have not yet been corroborated and this has created a certain amount of uncertainty among indigenous people in the area as to whether the Colombians are operating alone or if some Panamanian personnel are involved. Many Kuna indigenes have preferred not to speak out out of fear of the Panamanian police forces.

Due to this uncertainty, at the plenary session of the Extraordinary General Congress, held in the community of Miria Ubigandup on 15-16 August, and out of fear of threats made by Colombian paramilitary groups against the community of Yansipdiuar, the case was presented, and the President of the Republic was informed of the decision to approve the creation of a naval base along the border with Colombia. Moreover, it was agreed that before the establishment and implementation of the base, the Mixed Commission of the Kuna General Congress would negotiate the terms of an agreement on the establishment of the base.

So far the Kunas have practically offered everything on a 'silver tray' to the national government. On the 24th of September, 1996, the first meeting between the Minister of Government and Justice, accompanied by officials of the embassy and Southern Command Military Base of the United States and the leaders of the Muladup and Sasardi Nuevo communities, was held. Here, the Minister of Government and Justice explained the reasons for the establishment of the base and its functions. At the same time, the communities' commission expressed their position on the topic and made known three conditions for approval of the establishment of the base: 1) indemnification of the owners against land used in Puerto Escocés; 2) the need for an environmental impact study; and 3) the signing of the agreement on the establishment of the naval base.

The minister responded that it would be impossible to indemnify landowners and that an environmental impact study already existed. Moreover, in a press release on the 25th of September from the Minister of Government and Justice the initiation of construction of the base was announced without referring to any of the points presented by the leaders of the affected communities. It appears that the conditions proposed by the Kunas bothered the national authorities who in turn made a big issue out of the event and on many occasions verbally attacked the Kuna people. It was inconceivable that an indigenous people would speak of negotiations and indemnification.

Moments after the minister boarded his helicopter the Kuna landowners from the communities of Sasardi Nuevo and Muladub responded to this affront at the congress by deciding not to negotiate with the government nor to give in to requests to hand over their lands for construction of the naval base.

Faced with what appeared to be a deadlock, the Kuna General Chiefs and their work group decided to hold talks directly with the US government through its embassy in Panama. At the first meeting held in September, 1996, it was agreed with the Ambassador to ask the national government to include in future negotiations the indemnification of landowners from the affected area, the making of an agreement with the Kuna people with the Kuna General Congress's approval and the need to carry out an environmental impact study which would include socio-cultural and archeological elements as a preliminary step before the agreement. If carried out in the reverse order the agreement could end up being suspended for the period in which the Panamanian government does not advance the necessary measures to execute said studies.

The Americans made it known that they did not wish to become involved in the discussions being held between the Kunas and the government as it was considered to be an internal matter. But, they would respect any decision taken by the Kunas in order not to damage the friendly, bilateral relations maintained by the Kunas with different authorities and institutions of the United States in Panama. If the Kuna people continued to oppose the project, US financial support and the construction of the naval base would go elsewhere, perhaps even to another country. The first deadline established for the Kunas was that they make a decision by the end of September or failing that there would be a possibility for a deferral until the end of December, 1996. At the same meeting the Kunas publicised the fact that government officials had not adequately informed them of the details concerning establishment of the base.

On the 30th of October another meeting, promoted by the US, was held at the embassy. At this meeting, called 'Environmental Work Team', Ambassador

William Hughes presented his point of view on the Puerto Escocés Naval Base. The US Embassy's concern centred on approval and stability of the naval base. In this respect Ambassador Hughes pointed out the need to fulfil the following conditions: 1) the Kuna communities in the area should agree to the project; 2) the General Congress should formally approve the project; 3) the need to carry out an environmental impact study; and 4) the National Maritime Service should establish a permanent support headquarters in the province of Colon.

The root cause of the Kuna people's concerns once again surfaced: the lack of any agreement on the establishment of a naval base between the Kuna General Congress and the national government. The US Embassy decided, therefore, to await the decision of the plenary session of the General Congress which would meet from the 15th to the 17th of November in the community of Niadup.

The plenary session of the General Congress met and it was decided to issue a resolution calling for 'support for the naval base in the region of Kuna Yala upon fulfilment of the following conditions: a) the signing of an agreement between the state and the Kuna people; b) establishment of the base in the community of La Miel or Puerto Obaldía; and c) the completion of a thorough environmental impact study'.

Upon receiving the Kunas' refusal to give up Puerto Escocés, on the 13th of December the government drew up a supposed agreement, handwritten on ordinary paper with crossed out and incomplete sections and lacking the official stamps of the local congresses and the two communities. Furthermore, there was no relevant government authority involved in the drawing up of the document which was a surprise considering that Minister Raúl Montenegro had personally attended the last two General Congresses in Kuna Yala. From this point on the state initiated a less than proper policy, almost to the point of blackmail towards the principal representatives of the communities of Kuna Yala.

In response to the government's actions the Kuna people created an entire movement to stop the political pressure that the government representatives had been exerting with the help of the human resources of the ruling Democratic Revolutionary Party (DRP), to the detriment of indigenous unity. The Kuna people do not take the aforementioned 'agreement' seriously, as it was not professionally drawn up. Moreover, the document was extremely dangerous, because it sought money from a foreign government for the construction of a naval base at the expense of an indigenous people.

By means of the governor in the area the Panamanian government practically fenced in the Chiefs forcing them to disobey the peoples' demands and defend government positions. Official cars and aeroplanes were placed at their disposition to monitor their movements, and they were even forced to sign 'agreements' and 'memoranda' against their will. This has been admitted at several public meetings in Kuna Yala. All this led to political destabilisation in the region, while simultaneously the government intensified threats directed at Kuna indigenes and organisations which came out in defence of the interests of affected peoples and their own traditional authorities. The national government's dirty policies even went as far as to include the involvement of national police who had worked in intelligence during the Noriega dictatorship. These officials attempted to convince the Kuna people that 'anyone who was against the naval base was a drug-trafficker or an accomplice of the drug-traffickers'. These individuals should feel the full weight of the law for 'acting in violation of national security'.

There were government accusations against Kuna General Congress advisers for 'impeding' negotiations for the establishment of the naval base in Puerto Escocés. However, the accused defended themselves by pointing out that 'the advisers' political independence offended the government'. This led the National Director of Indigenous Affairs, Hugo Giraud, (also an adviser for the Minister of Government and Justice and for the Central American Parliament, and one of the most prestigious figures in the ruling party, PRD) to declare that 'there is a sector within the Kuna community which resides in the capital and has no problem with, in fact prefers that the naval base not be established anywhere in the region and that the current situation marked by insecurity and drug-trafficking be maintained.' (*La Prensa*, 5 January 1997).

On the other hand, the leaders of the affected communities, the *Sailas* (traditional leaders of each community), including Paulino González, *Saila* of the General Congress of Kuna Culture; Leonardo Valdés, *Saila* of Sasardi Mulatupu; and Pedro Green from Sasardi Nuevo, signed a communiqué to denounce government intimidation tactics bent on achieving approval for the project. According to the *Sailas*, government officials pressured their subordinates and took advantage of the current situation in the region by threatening and intimidating all those who opposed the base. In this way they were able to promote their own party politics for the next elections. The *Sailas* called on the entire Kuna population to respect the decision made at the congress on the 15th of November, 1996, where it was approved that the project should be constructed in Puerto Obaldía.

Moreover, the Ambassador of the United States, William Hughes, was asked to ask his government to withhold funding for the establishment of the naval base in Puerto Escocés, because it was against the will of the legitimate owners of the lands. Pedro Green, *Saila* from Sasardi Nuevo, stated that if the government was interested in resolving the Kuna people's problems they should aid them to market coconuts which are currently sold to Colombians. He added that the government pays little attention to the commercialisation of avocados and *molas* (traditional patchwork), both important sources of income for indigenous people.

In a publicly distributed memorandum, the Catholic missionaries of Kuna Yala cautioned that at this time 'the great house of the Kuna Congress is losing solidity. The ship is adrift, and it must be remembered that decisions made by the Congress are for the entire community and must be respected.'

At the same time the Napguana Association and the Regional Coordinator for Kuna Women made known their positions on the issue in communiqués. The Napguana communiqué pointed out that in November, 1995, the Kuna people made a decision with respect to the subject under discussion. It added that the current negotiations are ignoring the decision of the maximum Kuna authority, and it mentioned the governor as the individual responsible for divisionism and manipulation in the Kuna region. The

The border of the Kuna Yala region.
Photo: Mac Chapin

Kuna women, in their communiqué, accused the government of imposing its project through deceit and promises.

After much uncertainty an Extraordinary Kuna General Congress was held in the community of Achutupu from the 7th to the 9th of February, 1997, to discuss the subject and make a definitive decision on behalf of the peoples of Kuna Yala. The Puerto Escocés proposal was rejected in advance and in its place the Congress issued Resolution No. 1-02-97: 'By which a Commission to study the alternatives for establishment of a naval base in the Kuna Yala region is created' and, moreover, authorisation to create a commission 'to study the possible location where construction of a naval post would be feasible and suitable and that said Commission meet with the national government'. This temporarily brought to a close an intense discussion in which the political, administrative and territorial autonomy of the Kuna Yala region was threatened - an age-old indigenous people's autonomy well-known across the continent. Furthermore, the Kuna people have also once again demonstrated their well-versed political skills, because in spite of everything they were able to stop a far-reaching project promoted by the governments of Panama and the United States of America. It is only with great difficulty that we can predict the future benefits or problems which could affect the Kuna people.

The governmental proposal considers the following conditions to be advantageous:

According to sources in the Ministry of Government and Justice this is a partially uninhabited area. The tides are not strong which allows for ships to be anchored in port. The base is to be definitively located on Panamanian territory at a prudent distance from the Colombian border.

According to the Ministry of Government and Justice's plan the infrastructure can be used without having to undergo costly construction of the main sites including the runway and the pier. From this point, because of its geographic location, maritime access to the San Blás archipelago can be controlled.

The bay is a natural shelter which will protect the boats moored to the pier or anchored, especially during the dry season when the northern winds make movement in the area difficult. A nearby 60 metre high hill will facilitate communication and electronic monitoring. Construction of a communications tower for radar and radio antennas on the hill is planned.

As the area is only 20 miles from the border the distance can be covered in less than 30 minutes by using coastal patrol boats belonging to the National Maritime Service (SMN).

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Resolution No. 1-02-97 of the Extraordinary Kuna General Congress, held in Achudub, 7-9 February 1997.

Appendix

1. Letter from the Kuna General Congress to the President of the Republic.
Miria, Ubigandub, Kuna Yala, 15 August 1996.
The Honourable Dr. Ernesto Pérez Balladares
President of Panama

Dear Mr President,
We are writing to inform you that the Extraordinary Kuna General Congress, held on the 15th and 16th of August this year in the community of Miria Ubigandub, has decided to approve the establishment of a naval base close to the border with Colombia. Furthermore, we agreed that before its construction and establishment the Mixed Commission of the Kuna General Congress will negotiate the terms of an agreement for establishing this base.
Please receive our warmest regards.
Yours faithfully,
The General Chiefs Carlos López, Julián González, Leónidas Kantule Valdés and General Secretary Salomón Guerrero.

2. Resolution adopted by the Kuna General Congress, held in the community of Niadub, 14 November 1996.
By the legal powers vested in it the Kuna General Congress

Considering:

1. That the Extraordinary General Congress held last August in the community of Miria Ubigandub issued a letter of approval for the establishment of a naval base in Kuna Yala;

2. That the current General Congress in a comprehensive and detailed discussion accepts the creation of a naval base to combat drug-trafficking, border crossing by illegal immigrants, arms trafficking, incursions by foreign paramilitary groups and others;

Resolves:

To view favourably the establishment of a naval base in the region of Kuna Yala as long as the following conditions are fulfilled:
a. The signing of an accord between the state and the Kuna people;
b. That the base be established in the community of La Miel or Puerto Obaldía; and
c. That a comprehensive environmental impact study is carried out before commencement of work on the base.
Signed in the community of Niadub, region of Kuna Yala, Republic of Panama, on the 14th of November, 1996, by
The General Chiefs Carlos López, Julián González, Leónidas Kantule Valdés and General Secretary Salomón Guerrero.

3. Kuna General Congress Resolution No. 1-02-97
Calling for the creation of a Commission to study construction alternatives for the naval base in the region of Kuna Yala.

By the legal powers vested in it the Extraordinary General Congress, held in the community of Achudub on the 7th, 8th and 9th of February

Considering:

First: That in the community of Niadub, on the 15th, 16th and 17th of November, 1996, the Kuna General Congress made a decision on the establishment of a naval post in the region of Kuna Yala, deciding that it should be built in the community of Puerto Obaldía or La Miel;

Second: That communities are concerned because there exists a government proposal on construction of the aforementioned post in which the location is different from that called for in the Niadub resolution;

Third: That in addition to that resolved by the Congress held in Niadub, this great organ, aware of the different alternatives proposed in the Congress, considers it necessary to study these alternatives and present its findings to the Congress for its final decision;

Resolves:

First: To create a Commission to study the different alternatives where establishment of the naval post would be feasible and advisable and that this Commission meet with the national government;

Second: The aforementioned Commission will be composed of the following individuals: Alberto Vásquez, Miroslavia Dick, Ospino Pérez, Jesús Smith, Julio Benítez, Erasmo Navas and Marceliano Gómez;

Third: That before the presentation of the report before the Commission the consent of affected communities is needed. This is to be obtained through approval of a resolution by affected Local Congresses;

Fourth: That once the Commission has concluded its work, it must present the results to the next Congress for final ratification.

Let this resolution be made known and observed.

Signed in the community of Achudup on the 7th, 8th and 9th of February, 1997 by

The General Chiefs Carlos López, Julián González, Leónidas Kantule Valdés and General Secretary Salomón Guerrero.

Note:

The following article was written in the beginning of April, 1997, because during that period violence along the Colombian-Panamanian border, in Kuna territory, intensified. Executions and deaths became a daily event among the non-indigenous inhabitants due to fighting between Colombian paramilitary and guerrilla groups. This led a large number of poor people to enter Kuna lands in search of security and refuge from the violence in their country. ❑

Recommendation for the Creation of a Naval Base at the Border

By Atencio Lopez

When the Kuna people recommended the national government to establish a naval base in Puerto Obaldía, along the border where the daily violence experienced in the neighbouring country invades our territory, they were neither crazy nor clever. They merely made known their wisdom which has been ripening since time immemorial from along the banks of the Atrato River to the coasts of Colon (Panamanian province).

They were well aware that they could not expose the beauty, history and charm of Puerto Escocés to incursions by guerrillas, paramilitary groups or drug-traffickers. National security in times of peace should respect the historical patrimony, ecology and peaceful coexistence of indigenous peoples. We are well aware that Panama is not at war in the area, and it is therefore that, still bewildered by a well-planned campaign to convince the Kuna people to give up Puerto Escocés, the Kuna recommended that a military and humanitarian aid post be established along the Colombia-Panamanian border, in Puerto Obaldía or La Miel. The pages of the history of Colombia, written with the blood of innocent victims, have begun to include the hundreds of individuals entering Kuna territory as refugees.

At this time the United States of America should continue to aid their Panamanian counterparts to establish a naval base in the area specified by the Kuna people. Other Panamanian institutions or the UNHCR itself could establish camps to help the displaced. Any allegations that the Kuna people are 'allies' of the drug-traffickers because they reject establishment of the base in Puerto Escocés should end once and for all. No one in Kuna Yala has justified the violence, drug-trafficking and pain suffered by others. The sad reality is that some government representatives have shut themselves up in their offices and the bolts on their doors have rusted and their vision has darkened to the point that they can only see as far as the rugs they have brought home from far-off places. Another negative element is that when bilateral commissions are created between the two countries the opinion of those affected, in this case the Kuna people, is not taken into consideration.

The Kuna people's recommendation that the naval base be situated at the border is because it is assumed that this is the place of entrance and that it is therefore the best place for the watchdog to guard the house (without bothering anybody). On the other hand, the territory disputed as much in Colombia as in Panama is Dule or Kuna, and it grieves us that those who should be preserving the area's nature have turned it into another 'bloodstained land' (the origin of the words 'Abya Yala', the bloodstained land).

Ceding Puerto Escocés is not the only way the Kuna people can demonstrate their solidarity with Colombians and Panamanians. They have already given up an area equal to Puerto Obaldía ('Armali' in the Kuna language), the lands in Bonga and Puerto Nuevo, and we live in harmony with them maintaining Document 10. This clearly shows that the indigenous people are not racists because otherwise, we would have declared war on those who settle on our lands in order to escape from the fear and insecurity found on the other side of the border.

We make these assertions because we are well aware that 'national security', 'indigenous peoples' development with the military industry', 'indigenous idleness as a synonym for the Third World' and other barbarities will again be directed at us. But in spite of all this, the faces etched in the Aztecanor Mayan monuments, or the Kuna *nuchus* continue to stick out, ridiculing, a silent smile of victory for the men of mud and corn, who for thousands of years have been able to preserve Mother Earth. And for the sake of the next millennia's development, the Kuna people will continue to safeguard our territory, though not without asking the government to protect the Panamanian-Colombian border by constructing the naval base in Puerto Obaldía and not in Puerto Escocés.

9 April 1997

The author is a Kuna lawyer and director of the Legal Information Bureau of the Indigenous Peoples of Panama. ❑

BRAZIL

The Assasination of Galdino Pataxó

by
Marcos Terena
COMITE INTERTRIBAL

After 497 years, those of us indigenous people who have managed to open our eyes have gradually begun to take stock of the countless historical, political social and economic contradictions between whites and Indians, characterised by one of the greatest wars between two peoples, a centuries-old war between the rainforest-dwellers and the citizens of the concrete jungle. The younger of us warriors, the warriors of the end of the century, are no longer prepared to use only the arms of our ancestors as we have learnt to master new weaponry, acquired from our colonisers, such as paper and pen. We have yet to abandon the teachings of our grandfathers. In fact, the more aware we become of the world around us, the more evident indigenous knowledge becomes and the greater is the sound of our language and our cultural and spiritual traditions in our soul. These tools of life have helped us to understand the signs of the time and manifestations that nature presents us through plants, air and water and which the white man is incapable of comprehending also taught us to listen to the earth's heartbeat as we would listen to that of our children, so that they would learn, through our oral tradition, the benefits of a good life.

When the first white man reached the Atlantic shores of our indigenous peoples' lands, a Portuguese by the name of Pedro Cabral, our villages numbered 900 and there were 5 million indigenous people. Today we are 200 villages and 330,000 people. Brazil, on the other hand, has a population of 150 million people, including blacks and whites of various origins. Our brothers the Pataxó were the first to make contact with the Portuguese on the 25th of April. They were 25, the others 30,000 but they keep struggling to gain the official demarcation of lands that they had occupied throughout their history. They continue to try and push the Brazilian government into fulfilling its national and international constitutional commitments like ILO Convention 169, and into conceding historic rights borne of a moral and social compromise on the part of the new civilisation that brought us death, misery and poverty. In recent years every 19th of April the Day of the Indian is commemorated, when the schools and universities and sometimes the politicians of the federal government pay a kind of tribute. This year, 1997, we have had nothing to commemorate. The Brazilian government in the person of Fernando Henrique Cardoso, educated at the Sorbonne in France, produced one of the greatest contradictions and reverses for the cause of the indigenous peoples: first by pushing through a law conceding land rights to those who have invaded our lands and now, like an emperor, he wants to deprive us of social assistance like health, education and development. In truth, he is attempting to privatise all these areas in indigenous villages, many of whose inhabitants know no other language than their own.

The indigenous people who had always been sincere and friendly towards foreigners soon came to realise that behind the friendship lay treachery. The true colonialist aim was to dominate our villages and conquer new lands, something that we had never understood. Then, like the honest and battling people we were, we stopped believing in the words and promises of the white man and his government. This is why, in Brazil's case, there are people that know the way to the state capital, Brasilia, knowing that there lies the power and the centre of decision-making. They know that if they want laws to be enforced, seeing them in writing is not enough, they have to see them put into action. Each people negotiates according to its own traditions. There are those who would physically fight such as the Xavantes, the Krikati and the Katapo. There are others, like the Kaiwá of the Guaraní branch, with different traditions and who react by committing suicide. All of them, however search first of all for worded solutions.

The Week of the Indian in Brazil has never been a good one and this year's was one of the saddest ever for us. For the first time in the history of the indigenous struggle, Brazil witnessed hitherto unheard of scenes: two great chiefs weeping in public, men more accustomed to fighting for survival in the jungle were seen with tears in their eyes through desperation when faced with the scorn shown by the Brazilian government.

The indigenous strategy of dialogue began when the Xavantes held a large meeting for the chiefs of their people, attended by more than 100 leaders and in which it was decided not to accept aggressions against indigenous rights like the privatisation of social assistance and to demand that the government remove the president of FUNAI (National Indigenous Federation) for being a *persona non grata*. This lawyer had previously worked with Catholic missionaries through the CIMI (Indigenous Missionary Council). Other peoples supported the Xavantes. The indigenous peoples voiced and wrote down their demands, but were not paid any attention. The silence of 500 years continued in the traditional manner of the Brazilian authorities. Then, one Monday when there was no one at the FUNAI Presidency, the Xavante, Terena, Guajajara and Kaiwá warriors occupied the Cabinet as a way of attracting public attention and not allowing the President

of FUNAI to enter. Four days went by before the Brazilian President sent the message, through his spokesman, that 'the indigenous people rule inside their communities and he rules in Brazil', and as such would not heed the indigenous peoples' demands. In solidarity many politicians offered their help as intermediaries in the negotiations.

A truce was agreed to and a non-aggression agreement proposed by the government. However, they had already decided to suspend the agreement. The following morning at four o'clock, 20 policemen, armed to the teeth, invaded the Cabinet and arrested 7 sleeping young warriors. The indigenous people believed the promises of the authorities and were cheated once again. The chiefs, leaders of their peoples, were informed early in the morning and were very angered and offended by an action the likes of which had not taken place even under the military dictatorship. They then organised their warriors to go and rescue the youths and, armed with bows and arrows, marched towards the Federal Police Headquarters, where they were met by police armed with machine guns. The warriors were unafraid and even prepared to die if it meant getting their people freed. It was a rare moment of tension which was also covered by the Brazilian press with a certain degree of indignation. The indigenous people cried but did not drop their heads. And all this in the Week of the Indian.

The day following the Day of the Indian, the 20th of April, a councillor from the Pataxó people who was in town seeking demarcation for his lands went for an innocent walk to look around the streets of Brasilia and got lost. Not knowing how to return to his Indian refuge house Galdino Pataxó decided to rest in a lorry park until morning. There he fell asleep and woke at five in the morning to find that he had been set on fire and was very quickly burning. There was no time to scream or put out the flames, but he was helped by a group of white youths. He was a human being on fire, they said. It was incredible. But they were unable to do anything to help him as the skin was coming away from his body and he was burning like a human torch. 95% of his body was burnt by the time he reached the hospital.

That morning the same Xavante, Terena, Kaiwá and Fulni-o indigenes raced to the hospital to find out what was happening and to their surprise discovered that there was a higher official of the Brazilian government there. The silence was only broken by the agonising of Galdino Pataxó protesting against injustice. The official was certainly concerned but about the image of the government in the eyes of national and international public opinion. All of the indigenous people were distressed on seeing the covered body of their brother breathing through a tube and were furious at the opportunism of the authorities. Meanwhile, other warriors went to the police to find and arrest the people who had set Galdino alight. This produced a surprise: all of those responsible were youths from well-to-do families, even military families or governors and judges. These youngsters who probably had all they could wish for to be important people - good food, cars, expensive schooling - had done this in their own words as a kind of prank, believing that the man was a vagrant and not an Indian. This was the saddest of all Weeks of the Indian for us. The same Week of the Indian when we saw two chiefs weep. One, the Xavante chief, for the cowardly imprisonment of his young warriors on orders from the federal government as a way of humiliating and demoralising the indigenous movement and show who held power. The other, the leader of the Pataxó, for the suffering, pain and death of one of his warriors who had been wandering the streets of the capital, seeking to have his lands demarcated for the survival of his people. For being different, an Indian or a vagrant, he was burnt alive as a joke by a group of youths on their way home after a night of fun, in a final act of pure Nazism.

Those of us indigenous people who first witnessed the imprisonment of the Xavantes, the silence of the government and the suffering of Galdino Pataxó have cried. We cry not only for these events but also for the awareness of a whole history of marginalisation in which we and our ancestors have lived under the colonisers and under the 'shelter' of the government, and how they treat our chiefs, our problems and our rights.

We cry too in the light of these episodes for what a society is doing to its children and youth under modernisation, development and globalisation - a society that agonises, that does not know how to construct its future and which the indigenous people have a duty to orientate and help from a socio-ecological and socio-economic perspective. This is clear evidence, more than ever before, of how valuable the indigenous philosophy is, and that the proper upbringing of a child cannot merely be paid for in currency.

We have plenty to criticise the Brazilian government for, not for ideological problems but for the way we are undeservedly mistreated by them. We are not savages, nor are we obstacles to progress or leftovers from a bygone civilisation. We are the natural inhabitants of all these lands. The indigenous peoples, not only in Brazil, have to show with the love, courage and strength of our ancestors why every corner of this continent has a place for us. The white man can no longer be considered an enemy. They are people that need to be taught how to enjoy life to the full as we do. This is why we demand that the authorities fulfil their duties with us. That is a historic and permanent obligation until the day we have our territories and have been granted the right to a decent life and to determine our own futures as we had done before colonisation.

When we talk about enjoying life we are making an appeal to the modern world: we indigenous peoples have over the last five centuries continued an oral teaching tradition, from father to son, with a love for the land and the animals. We have made our children the focus of our activities while always respecting the wisdom and intelligence of our elders. These activities, that cannot be paid for in money, offer our children physical, cultural and spiritual guidance. Such a balance is not found away from our villages, which is why where there is an indigenous village, you will find self-sufficient environments, ecosystems and economies. For this reason we ask the developing world what kind of world they are creating for their children, what kind of air, sky and water they would leave us with in the future. We do this not because we seek to be the best, but so that everyone of us looks inside his soul, inside his own family and society, and finds the answer.

Modern machinery produces many things but, as was shown by the five youths in Brasilia, these are no substi-

tute for the hands and hearts of a mother and father. To teach and raise children is a sacred task that cannot be replaced by coins and vast amounts of money.

The developing world should pause for reflection with our Creator and the land. There are several places on this planet, in Europe, Africa and Central America, where our brothers have nothing to eat. There are those who are at war with their neighbours. The Earth weeps as we wept for our brother Galdino Pataxó.

Perhaps the Great Creator has prepared a mission for the indigenous people when they walk the corridors of the United Nations, of the European Community, the World Bank, attempting to understand, study and take an active part in projects that are carried out in the name of development but that have caused so much damage. It is no longer possible for us to accept that even in the name of peace and science millions of dollars continue to be wasted on atomic testing, on new weaponry or even on cloning. We feel that all this is madness and is taking us along the road to destruction.

As far as we the indigenous people are concerned, we will continue following in the footsteps of our predecessors, knowing that we rainforest-dwellers cannot make the journey alone when there are millions of non-indigenous people, inhabitants of the concrete jungles, who follow the same paths in search of dignity and respect. There is maybe a dream to be realised, to continue and help those who look for a better life on the basis of mutual respect, even removing the prejudice and discrimination that has separated us for so long for the simple reason that we are different.

Do you believe in that possibility? We do believe and for that reason make our voices heard loud and clear, so that scenes like those witnessed in Brasilia never reoccur, and so that indigenous questions, whether in Brazil or in any other country, be dealt with as a question of priority by the government. In Brazil, Europe, North America and Asia, people should be aware as we are of how to defend our rights, whether this be in land demarcation or in creating a Permanent Forum for Indigenous Peoples and a Declaration of Indigenous Rights at the United Nations. We have followed the same course from generation to generation, believing that our words express the hope for our future's right to survival and that of the environment, of native biodiversity and of technology. This is the true meaning of survival, the survival of the planet and of humanity itself. Can you hear us? We hope so, because we have been saying the same thing now for 500 years. ❑

BRAZIL
The Roraima Indigenous Council's Demand: "Respect the True Owners of the Land"

The assassination of our brother Pataxó has been a tragic event for the entire country. During the more than 500 years in which we have fought to defend our land, the indigenous peoples have been viciously decimated. And not once have those who committed the crimes against our people been held responsible. The indifference of the authorities to so many murders can be attributed to the 'savagery' theory. We were considered to be and treated as savages by the colonisers. They saw us as being wild and therefore dangerous, a threat to the colonial conquest of Brazil.

It is written in history books that the colonial and imperial governments' order was to extinguish the indigenous peoples - be it by weapons or integration into civilisation, the white man's society. This order still affects us today, killing our families, our leaders and wiping out entire peoples in full view of the law and the authorities who irresponsibly and demagogically continue to fuel the massacre.

Our struggle, similar to that of the landless, has only one goal: the right to life. For us, land does not mean money. Nor does it represent private interests or real estate speculation. It is our history, our children, our country, our families, our grandparents, ancestors, myths, strength and the certainty that we are alive - alive in our culture and our language. We are the true owners of the land because we know how to respect it and because we know how to respect the true value of life. We do not suppress diversity and seek out confrontation.

We peacefully demand the right to life, to land, always trusting that one day the white man's justice will reach us. Nevertheless, in spite of our belief in justice and in the authorities' true understanding of our problems, there is an increase in the number of deaths, cultural and physical mutilations, and victims of vicious actions carried out by the federal government. It is not a policy specifically directed at indigenous people, but it does allow savage individuals to hunt beggars on the streets. They too are victims of discrimination and social abandonment. It also permits the killing of those who fight for our rights, the rights of relatives who have suffered from the attacks of landowners and the mistakes of President Fernando Henrique Cardoso who refuses to recognise that we are the true owners of the land.

We reject any and all types of crimes which provoke such violent acts as the murder of our brother Pataxó. We can not continue to live in terror or be the target of federal injustice which permits all types of attacks and aggressions against indigenous people. For us, President Cardoso expressing indignation in the media and calling for punishment of the guilty in this or that case is not enough. What we want is the demarcation of land and the guaranty that our rights will be protected. We believe that only demarcation can put an end to the centuries-old massacre of our people and give us the unequivocal right to say: 'We are the true owners of the land'. ❑

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ARGENTINA

by Morita Carrasco

"The Communities have their traditions. They are their rights"

The Indigenous Peoples' Participation Programme

On 8 and 9 June, 1996, the first national preparatory meeting of the national Indigenous Peoples' Participation Programme (IPP) was held in Buenos Aires. The IPP is an indigenous mobilisation programme whose objective is that indigenous peoples, through substantial participation, produce the criteria and guidelines which the state should follow in order to effectively put into action the principles and content of Article 75 inc. 17 of the National Constitution which states:

'It is the national Congress's responsibility to recognise the ethnic and cultural pre-existence of Argentine indigenous peoples; guarantee respect for their identity and the right to intercultural, bilingual education; recognise the legal capacity of their communities and the collective possession and ownership of the lands they traditionally occupy; regulate the alienation of more land which is suitable for human development; none of this land will be alienable or transferable and it will be protected from liens or seizure; and assure participation in the administration of their natural resources and any other interests which may concern them. The provinces can exercise these powers concurrently.'

One objective derived from this article is to allow for application of the recognised rights in order to achieve indigenous self-expression and that this be reflected in the preparation of national legislation.

The formulation of the indigenous rights incorporated in the 1994 constitutional reform were the direct result of the continuous indigenous presence in the Constitutional Assembly's debates.

Because they are new rights, they have been incorporated in the Constitution's text under the section 'Powers of the National Congress'; this body should in turn pass laws to make the rights operational. Even though some jurists sustain that this is not necessary because pro-indigenous laws which guarantee their application already exist, a majority of indigenes feel that the spirit of Art. 75 inc. 17 advances much more than the existing laws. Therefore, it is necessary to adapt legislation currently in force to this spirit. This is the case, for example, with national law 23302 'Promotion of and Support to Indigenous Communities'.

Faced with the government's intention to reform this law in 1995, a group of community representatives and leaders of organisations met with national legislators so that they would not make decisions without the due consultation and participation called for according to the law.

Those attending demanded that the legislators respect their constitutional rights and asked for time to carry out consultations with as many communities and local organisations as possible. Sufficient time and their own participation methodology were the key issues in their bid to avoid plans to carry out reform without consulting them. This is the origin of the IPP.

The National Pastoral Indigenous Team (ENDEPA), a Catholic organisation which supports the indigenous peoples' struggle, and the Republic of Argentina Indigenous Association (AIRA) participated in the organisation of the IPP.

In order to ascertain the diverse indigenous realities, a methodology encompassing four levels was decided on: local (communities); zonal (various communities); regional (north-west, north-east, central west, central east, south; and national. In total, there are 49 zones encompassing members of 17 different indigenous peoples: Selknam, Mapuche, Tehuelche, Rankulche, Mocoví, Komlek, Wichí, Simba, Ava, Tapyy, Mbyá, Pilagá, Iyojwaja, Niwaklé, Kolla, Huarpe, and Diaguita-calchaquí. They are spread across rural

communities and urban and suburban settlements.

The June 1996 meeting brought together provincial and zonal representatives, support teams and indigenous professionals and anthropologists to collaborate on technical aspects. The objective of the meeting was to agree on the content to be debated at local meetings; adjust the methodology; elaborate a tentative timetable of activities; to become familiar with the administrative procedures and financial terms; and to form the national and regional coordination teams. The promotion of an exchange of information and working materials already produced or in the process of being developed was also sought.

After registering all of the participants, Saturday's activities began with a presentation and a succinct statement about the presentation's intention. Unfortunately, this task took a long time because many of the participants were not

fully familiar with the project. For this reason there were many discussions about the level of representativeness of each participant as well as some concern about the power which such a position implicitly holds. IPP's objective and the day's agenda were explained several times. The assembly decided that only those who had been legitimately elected in community meetings could vote, while the others could express their opinion but did not have the right to vote.

It was decided to work in groups in order to arrange the discussions and participants' contributions. The lawyers and anthropologists formed the technical advisory team. The guidelines for the work were adherence to the general topics to be examined and development of proposals for other themes considered relevant to the elaboration of a joint platform of demands allowing for organising relations with the states (national and provincial) based on new foundations. The professionals were asked to lend their knowledge to the clarification of certain technical terms and to help adjust the methodology. The lawyers asked the anthropologists to develop proposals to interpret certain forms of organisation and concepts such as 'lands traditionally occupied'. They were asked to apply techniques from their discipline, for example, fieldwork, to assist in obtaining information to the point that 'people themselves are able to express things'.

The anthropologists asked the lawyers to contribute critical, legal views of concepts arising from indigenous dialogue. One example of this is the distinction which should be made between the 'spirit of the owner' anchored in the basis of legislation on private property and other purposes which could possibly underlie the forms of possession and ownership which indigenous peoples are demanding today.

One positive result of the meeting between the professionals was the creation of an integration and communication network for new legal developments and actions taking place in their home areas. The objective was to create a continual documentation and information centre for all members of the network so that they can develop solid conceptual foundations to offer to legislators, judges and government employees who work with administrative and legislative acts which affect indigenous peoples.

The working groups' conclusions as well as the contributions of the assembly were reported on posters to facilitate their debate at the plenary session. Everyone agreed that the main theme was **land**. Others elaborated by explaining that the issue was not one of 'handing over' land but restitution. Connected to this theme is the management of use and exploitation of **natural resources** and the above-mentioned direct **participation** in issues affecting it. Many agreed that for the laws to be observed a form of organisation sufficiently broad enough to permit inclusion of different indigenous peoples' situations should be found. However, the presentation of different cases regarding **legal status** showed that non-indigenous models including civil associations such as cooperatives and friendly societies created many difficulties for the communities, because the communities do not exactly understand what requirements the authorities expect them to fulfil. Some proposed that each province and people manage their own situation. Each region, they stated, has particularities which should be reflected in their legislation.

Lands, natural resources and legal status are closely connected and are the foundation upon which all other rights rest, above all the right to continue being indigenous people - that is to say to belong to a different culture. But for the laws to be 'real' they should provide a legal form for organisation and legal status for indigenous people distinct from the ways of organising and legal status of other citizens.

Some raised the issue that there are communication problems, that many people do not even know that they have rights, that they realise government plans too late and that this in many instances impedes resistance to them. Special attention was drawn to the case of large projects such as national or international highways, construction of bridges, privatisation of occupied lands, indigenous development programmes, etc. Group 1 proposed making a News Bulletin to be sent to all communities in Argentina.

Along these lines other groups expressed the need for training in technical, legal and professional terminology. They also wanted to debate aspects concerning bilingual, intercultural education and health.

Participation and how to achieve it was the subject of debate in both groups and the assembly. It was determined that in Argentina consultation mechanisms meeting indigenous peoples' needs do not exist. This, it was said, is an organi-

Photo: Morita Carrasco

sational problem. If in IPP broad, grassroots participation is sought, then the opinions of leaders and organisations should not carry more weight than other participants.

Today, after a year, the reflexions and debate continue. Due to the country's size and varying climates which impede the movement of many communities during different times of the year, development has been unequal, just as the regions' socio-political histories have also been varied.

In May, 1997, the situation was as follows: the North-East region of Argentina completed their work. The North-West, Central and South regions hoped to have completed their work by July. This means that the National Assembly is expected to be held during the first days of August.

Additional themes were added to those already selected. In the North-East region the Wichí, Qom, Pitelaalek, Mocoví and Mbyá-Guaraní peoples who live in the Chaco, Formosa, Misiones and Santa Fe provinces incorporated religion, culture and institutional issues into their work.

Although laws exist to accept indigenous names and prohibit discrimination, in reality these laws are ineffective. One constant demand is that the National Register of Citizens allow indigenous parents to give their children indigenous names without forcing them to make a special appeal to the system. Language, art, culture, traditional lifestyles and use of their own natural resources are closely connected to lands and territories. This region also protested that permission or authorisation should not be required to hunt or fish, because 'this is the way we do things' and to impose restrictions on socio-cultural practices is to restrict the free exercise of their own culture.

Some participants demanded the right to freely practise their traditional religions. Others sought recognition as legal entities for their churches.

Institutional issues was the focus of the debate on the Tax Office's demand that thousands of indigenes declare their financial situation with regards to their income. The minimum contribution for independent workers is US$ 60, an impossible sum of money for the majority of indigenous people.

It is evident that although the state recognises indigenous peoples' constitutional rights, they continue to deny them a special legal status. How can the hunters in Gran Chaco, they asked, be considered independent workers if they do not commercialise their product; and if they did, how can this be defined as a permanent activity when it is only a seasonal activity to feed their families?

Without a doubt, equality before law is an estimable principle for nation-states, but it should not be an argument for the legitimisation of official integrationist policies such as the obligation to pay

taxes. The indigenous response was categorically: 'We are not going to pay taxes.'

It is clear that without proposing to do so, IPP is furthering the development of a unified indigenous political platform, and this worries the state. The National Executive's attitude during the course of the programme, seen through its National Institute of Indigenous Affairs (INAI), caught the participants' attention. This governmental agency focusing on issues of relevance to indigenous people has started an adjudication of legal entities programme for indigenous communities following a generic model for all types of situations. The justification is that it is not possible to wait until the end of the programme to learn the opinion of the indigenes about their communities' legal entities, because urgent situation's exist which must be resolved immediately.

This has been seen as one more attempt to fragment the possible solidarity between peoples which would appear to be forming in the IPP. Even though there are no specific laws, the pre-existence of indigenous communities and peoples, recognised in Art. 75 inc. 17, makes it unnecessary to establish administrative procedures to obtain legal status such as a civil association, because it is a guaranteed right of all citizens. For the IPP participants the indigenous community is already a legal entity according to public law, similar to the Church, because its existence precedes the formation of the state.

The Argentine indigenous peoples are eager for justice, but demand the right to organise and regulate their lives in accordance with their customs; resolving their interests and conflicts according to their own norms and traditional authorities.

It is clear that the meetings and political practices put in movement by IPP forge, on the one hand, an indigenous identity which overcomes prejudices and internal differences that fragment their consciousness of themselves as an indigenous people. On the other hand, to the extent that the historical reasons for their subjugation are apparent, the will to reinforce their differences as peoples gains strength. With the presence of these new social actors the ability of the nation's constitution to accomodate the totality of its citizens and project a single growth and development for all is put in question. Even though it was a long time coming, the constitutional recognition implies acknowledgement that the nation is not a legal and political unity, but rather that the state has been constructed by silencing an important part of the population.

At present, IPP represents a hope for the meeting between this silenced sector and the state, as well as a challenge for the future:

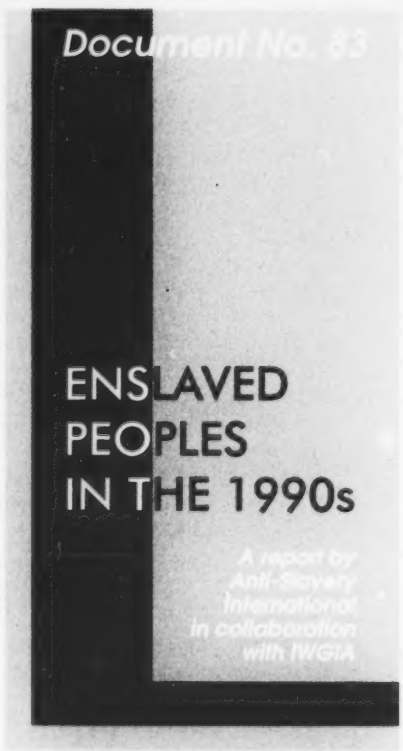
How to integrate the diversity of individual wants in a joint front of shared demands and goals;

How to elaborate a joint political platform to respond to state policies which are persistently tutelary and welfare oriented;

How to harmonise urgent needs with political objectives;

How to deal with bank and international cooperation agencies' programmes and help without promoting the individualistic attitude 'save yourself if you can'.

Morita Carrasco is an anthropologist and professor at the University of Buenos Aires. ❑



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per capita for the number of Aboriginal people held in custody than for non Aboriginal people.

Despite over two hundred deaths of Aboriginal people in custody, over the past fourteen years, no criminal charges against the police or prison authorities have been laid.

The life expectancy of Aboriginal people continues to be twenty years below the life expectancy of all other Australians. Aboriginal men between the ages 35 years and 44 years are 7.5 times more likely to die than other men of that age.

Madam Chair, these statistics go on and on. There can be no doubt - NO DOUBT - in anyone's mind, that government policies have failed. For those who might doubt the reasons, we support the fundamental findings and recommendations of the Royal Commission into Aboriginal Deaths in Custody.

These recommendations speak of empowerment, self-determination and land rights.

By contrast the government seeks to blame the Aboriginal people themselves for their social status.

The Minister for Health has claimed that poor Aboriginal health exists because Aboriginal people drink and smoke too much.

The Minister for Aboriginal and Torres Strait Islander Affairs blames the Aboriginal leadership for being loud, unrepresentative and self-interested.

The Minister for Aboriginal and Torres Strait Islander Affairs has implied, by his directions for a special audit, that the unacceptable social indicators highlighting Aboriginal disadvantage are the result of waste, incompetence and failure by ATSIC and the Aboriginal service organisations.

The Prime Minister accuses the court rulings, on the survival of traditional Aboriginal 'Native Title' in 1997, of having 'gone too far in favour of the Aboriginal people' and in need of amendment by parliament.

The Prime Minister believes that responsibility for Aboriginal affairs should be returned to the State and Territory governments of Australia.

The Prime Minister accuses the Aboriginal peoples of being in receipt of taxpayers moneys and lacking accountability to those taxpayers.

Madam Chair, I now draw attention to the debate in Australia about Native Title. Last, year, we claimed that the government had decided unilaterally, without any support or encouragement from the indigenous peoples, to amend the native title laws in Australia.

We questioned how the government could take such action and lawfully defend the resulting legislation which would provide protection of property rights and entitlements in Australia according to race, as a special measure in the terms of the International Convention on the Elimination of All Forms of Racial Discrimination.

We now discover the answer has been provided in the draft legislation in parliament which will prevent the Australian courts from giving interpretation to the international treatise signed by the Australian government. This legislation, roughly the 'Administrative Decisions (International Instruments) Bill', will change the current (albeit recently determined by the High Court) practice for legal interpretation of Australian law, by examining any relevant signed treaty where no relevant statute exists.

Should this bill become law it may prevent the Aboriginal people from making a legal challenge to federal native title legislation which is deliberately intended to be racially discriminatory.

I have recently participated as one member of a small indigenous delegation to Europe on Native Title matters. That delegation was appointed by the National Indigenous Working Group on Native Title, a highly representative affiliation of (approximately) thirty organisations with responsibility for land rights and national indigenous rights.

The delegation was commissioned to bring to international attention the major breaches in human rights against the Aboriginal Peoples in Australia. These breaches included existing and impending official actions by the government. I table with this speech the documentation provided by that delegation to government and non-governmental organisations during the European round of visitations.

Madam Chair, this report does not further elaborate on the native title concerns of the indigenous peoples of Australia as the documentation which I have tabled does adequately present the official position from the national representatives. Further, I do not have a specific mandate from the national representatives to make additional submission on their behalf to this Working Group. However, I would like to take the opportunity to make some personal observations relevant to the protection of human rights, which have occurred to me as a result of my experience in the native title delegation.

As the first issue, I would like to stress the importance of recognising and promoting the human rights of the indigenous peoples as an international concern. This responsibility appears to have been formally acknowledged already by certain European countries and the European Parliament.

Unfortunately, the responsibility does not seem to have been accepted by Australia. The national and state/territory governments of Australia have recently, on more than one occasion, attacked Aboriginal leaders advocating indigenous rights - human rights - in the international community.

Our leadership has in the past six months been routinely accused of being traitors to the nation, unrepresentative and self interested. in most instances the leaders subjected to these criticisms were defending native title property rights.

These accusations might be expected from members of the public, ignorant of the concepts of fundamental rights of people in a free world, but could not be acceptable from the political leaders of developed countries, like Australia.

Ironically, at least one of these political leaders has also expressed contempt of the judicial office of the High Court of Australia, proposed unconstitutional actions to end Aboriginal property rights, and participated in acts of public vilification - while at the same time accusing Aboriginal leaders of treachery.

As I emphasise later in this speech it is important that governments and non-governmental organisations maintain their international interest in the protection of human rights for indigenous peoples.

The second issue is the general misconception that Indigenous Peoples in 'first world' countries, such as Australia, do not require attention at the international level. This misconception may be associated with the belief that the 'first world' nations do no not commit major breaches of human rights.

Many people, with whom the Aboriginal delegation met, were amazed to hear of the socio-economic disadvantages of

the Aboriginal people in Australia, the oppressive environment of racism, and the failure in Australia to implement national land rights reform.

While our contacts were aware of such issues in 'Third World' countries they did not have appreciation of the desperate situations also confronting indigenous peoples in first world countries. We would therefore urge European countries at least to consider the situation of indigenous peoples in first world countries as well as third world countries.

The third issue which I wish to elaborate is my awareness that some nation-states in Europe actually assist and encourage non-governmental organisations (NGOs) to increase access to their parliaments and its elected members. This openness in communications was completely foreign to my experiences, which are extensive, in dealing with any of the governments of Australia. More international attention should be given to the role and relationship between NGOs and governments on human rights protection for indigenous peoples.

To this last point I would particularly urge the Australian government to directly assist (with finances and information) Aboriginal NGOs to prepare independent reports on the implementation of indigenous rights to any and all forums to which the governments reports.

FAIRA also made comment last year on the paucity of outcomes for Aboriginal peoples through the use of Royal Commissions by the Australian government to investigate the injustices against the Aboriginal peoples.

We declared the Royal Commission into Aboriginal Deaths in Custody to be a failure because it has not led to any substantial improvements for the Aboriginal peoples.

History shows that the Australian nation, and the preceding colonies of the British Crown, have always failed to achieve any positive outcomes from Royal Commissions into Aboriginal issues.

The Aboriginal peoples should no longer expect or hope that Royal Commissions in Australia will deliver satisfaction, positive changes or justice.

FAIRA said, last year, that it could not see any benefit to be derived by the Inquiry into the Separation of Families conducted by the Human Rights and Equal Opportunity Commission.

We said that there were, and still are, serious injustices to be addressed but the inquiry itself can not provide justice or even solace to the Aboriginal peoples who participated in this inquiry. Our concerns have been justified.

We repeat our message of last year - the Australian government must establish and empower tribunals, staffed by the Aboriginal peoples. Such tribunals must not only inquire into matters but must also take the remedial action necessary to rectify unlawful or unjust deprivation, disadvantage and injustice against the Aboriginal peoples.

The options, we said, are to either be subservient and powerless under and extremely partisan government - a government intent on preventing the Aboriginal peoples from enjoying their rights - or to confront the Australian government to gain recognition and acknowledgement of our rights.

FAIRA strongly advocates immediate and positive gains in the Aboriginal struggle for self-determination. The Foundation does not advocate intemperate means for the Aboriginal peoples to achieve self-determination.

FAIRA said the international community must be prepared to give more scrutiny to the governments's treatment of the Aboriginals peoples.

If the Australian population, or at least a majority of the population, continues in hostility towards Aboriginal aspirations for self-determination, and the Australian government continues to exploit rather than address poor race relations, then international scrutiny of Australia's human rights treatment remains the most viable means to protect the indigenous rights of the Aboriginal peoples. FAIRA is convinced that resolution of the human rights issues and the indigenous rights issues can, and should, occur within Australia. We are well aware that this message has been constantly presented to the government this past year by all national indigenous authorities. Open dialogue, based upon truth, empathy and regard for human rights, is the first step towards reconciliation.

Again, Madam Chair, we draw attention to the failure of the Australian government to bring up to date its reports to the various human rights committees of the United Nations. It is imperative that the government submit immediately its overdue reports under treaties on the Elimination of All Forms of Racial Discrimination, on Civil and Political Rights and Social and Cultural Rights. These reports are up to six years overdue.

The relevant and interested human rights agencies of the United Nations should not tolerate delinquent, inadequate or unratified reporting by the government on human rights for Indigenous peoples. The agencies should establish and reinforce their own direct contact with the indigenous peoples, including through NGO reporting, and ensure that indigenous peoples are made aware of and are able to exercise their human rights as defined by international standards.

The FAIRA calls upon the government to organise and adopt adequate protocols for the introduction and passage of all legislation directly or exclusively affecting the rights of the Aboriginal peoples, ensuring that the protocols meet the standard specific in Article 20 of the Draft Declaration and the special measure clause of the International Convention on the Elimination of All Forms of Racial Discrimination.

The FAIRA denounces the Australian government's actions which have paralysed the organisations and infrastructure of the Aboriginal peoples through severe, unnecessary and unjustified cuts in funds.

The FAIRA advocates, in the most strong terms, the negotiation of a treaty settlement between the Australian government and the Aboriginal peoples which is based upon the following five principles:

- The right to decide whether we want to be part of the nation called Australia;
- The right, so long as our status remains as that of a dependent peoples within the Australian community, to fully participate in every level of society through positive and special measures;
- The right to negotiate an Interim Charter by which a timetable for regaining control over ourselves and our territory is progressively achieved;
- The right to the return in ownership of sufficient territories (including land and sea) to satisfy our needs as a peoples;
- The right to negotiate arrangements by which the territorial integrity of Aboriginal lands and Australian territory is mutually respected.

Thank you, Madam Chair.

The Indigenous Peoples' Legislative Agenda: Strengthening the Institutions for Self-Determination and Participatory Development

In pursuing their legislative agenda, indigenous Filipinos do not merely aim for the enactment of the IPRA but likewise at strengthening their institutions for self-determination and participatory development. Indigenous peoples' organisations assume that pro-active participation of indigenous peoples in the legislative process will advance the conscientisation, organising, networking and institutional building goals of the indigenous peoples' movement in the Philippines.

Conscientisation

> *If life is threatened, what ought a man do? Resist. This he must do. Otherwise he is dishonoured and that is worse than death. (Kallinga Chieftain, Macilling Dulag)*

Intrusion into ancestral domains, dispossession, massive exploitation of natural resources by the elite among the migrant population, dominance and neglect by the government, and marginalisation brought about non-recognition of indigenous peoples' rights, has now provoked their resistance. Dissidence has escalated to a point that recognising the rights of indigenous peoples to their ancestral domains has become the key to ensuring the success of any peace process or poverty alleviation agenda of the government.

Among indigenous peoples, their legislative agenda defines the basic rights that they demand to be recognised and enforced. This is their defence against life-threatening events that put their very survival as peoples in jeopardy. The issues confront them as peoples, not merely as isolated tribal communities. Hence, they have collectively discerned the situation and have in unity come up with their solution.

The indigenous peoples' vigilance, determination and perseverance at pursuing the legislative agenda springs from the fact that it was they themselves who have debated, defined and articulated the agenda. It is no one else's agenda but theirs. It is their rallying cry.

Organisation and Empowerment

Pursuing the legislative agenda has precipitated a cultural and political awakening among the indigenous Filipinos and has given rise to the emergence of indigenous peoples' organisations and alliances.

Realising that landlords and big business interests well represented in both house of the Philippine legislature will pour all their efforts into watering down the progressive features of the IPRA, indigenous peoples'organisations have mobilised their members to fill up the galleries of both houses of Congress during the hearings and deliberations on the bill to forestall such an eventuality. They have organised teams to lobby among the senators and representatives in Congress. They have signed statements of support and have rallied local NGOs, the Church and Local Government Units to support their cause. Positive gains towards organising and consolidating their forces to take advantage of opportunities have been among the results of the lobbying process.

Networking and Institution Building

Building a multi-sectoral indigenous peoples' rights constituency which will serve as the source of popular support for the advancement of the indigenous peoples' interests in all arenas of their legitimate struggle is one of the gains realised in pursuit of enactment of the IPRA.

The Technical Working Group of the Senate Committee on Indigenous Peoples is the best example of collaborative efforts among indigenous peoples, NGOs and government organisations. These collaborations are also expressed in many new forms at the regional and local levels. Shared programmes of action, consultative assemblies and media outreach illustrate the convergence or unity of groups in solidarity with indigenous peoples.

Beyond the Legislative Agenda

In the abeyance of the IPRA, indigenous peoples have moved for and have undertaken solidarity action for pressing concerns such as:

1. Seeking a moratorium on the approval of pending Financial and Technical Assistance Agreement (FTAA) applications under the Mining code of 1995 and the issuance of permits under the various forestry programmes of the Department of Environment and Natural Resources (DENR) that alienate the indigenous peoples from their lands, forests, waters and other communal and ancestral patrimonies;

2. Supporting the action of the Cordillera Peoples for genuine autonomy;
3. Ensuring the participation of indigenous peoples in the formulation, implementation and evaluation of other plans, policies and programmes such as power and water projects;
4. Ensuring that an indigenous person who can genuinely promote the indigenous peoples' interest be appointed as their sectoral representative in Congress;
5. Safeguarding indigenous knowledge and intellectual property rights;
6. Expediting the issuance of CADCs, identification and delineation of ancestral domains and boundary demarcation of ancestral domains;
7. Conducting capability building programmes among indigenous peoples' organisations and networks;
8. Continuously organising indigenous peoples towards the defence and development of ancestral domains.

These action will ensure that the institutions for participatory development and self-determination are established and strengthened.

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Tadeo R. Culla is the former coordinator of the advocacy programme of the Episcopal Commission on Indigenous Peoples (ECIP), an agency under the Catholic Bishops' Conference of the Philippines. He is currently pursuing a post-graduate degree in Regional Planning at the University of the Philippines.

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IUCN

Resolutions and Recommendations

World Conservation Congress
13-23 October 1996 - Montreal - Canada

1.49 Indigenous Peoples and IUCN

RECALLING that indigenous peoples of the world total approximately 300 million people and that they mainly inhabit the areas rich in biodiversity;

ACKNOWLEDGING that the present biodiversity in the regions inhabited by indigenous peoples has been maintained by those peoples through management that was generally wise and sustainable, and that ensured sources of food and other basic resources for the survival of indigenous peoples;

RECALLING that nature constitutes an important part of the societies, cultures and history of indigenous peoples;

RECALLING that indigenous peoples continue to claim the control of their lands or territories and the right to use their natural resources in accordance with their own cultures and development processes;

RECALLING that many conservation initiatives in the world have been established over the lands or territories of indigenous peoples without their consent;

CONCERNED that some conservation policies on biodiversity do not give enough consideration to the rights and interests of indigenous peoples;

ACKNOWLEDGING that IUCN is making a considerable effort to include the interests of indigenous peoples in its initiatives;

CONSCIOUS of the need to increase and consolidate the institutional space and financial resources to guarantee the participation of indigenous peoples in the conservation initiatives and the development of policies within IUCN;

CONVINCED that the participation of indigenous peoples in conservation initiatives, in their lands or territories, either through joint activities, or exclusively by themselves, is a necessary condition to consolidate and advance towards the achievement of the conservation and management of biodiversity;

TAKING INTO ACCOUNT ILO Convention No 169 and the provisions of the Convention on Biological Diversity on the role of indigenous peoples in the management, use and conservation of biodiversity, recommendations and guidelines established in Agenda 21, and the principles proposed in the draft UN Declaration on the Rights of Indigenous Peoples;

TAKING INTO ACCOUNT that the UN General Assembly, in 1994, proclaimed the International Decade of the World's Indigenous People, calling for the establishment of a 'New Partnership' with indigenous peoples;

TAKING INTO ACCOUNT that *Caring for the Earth* highlights the role of indigenous peoples in relation with sustainable development and conservation of biodiversity, as well as their rights in the management of natural resources;

RECALLING the Resolutions from the 18th Session of the IUCN General Assembly and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others from the 19th Session, which referred to indigenous peoples and conservation of biodiversity and natural resource management;

The World Conservation Congress at its 1st Session in Montreal, Canada, 14-23 October 1996;

1. REQUESTS the Director General to consider the following measures:

a) to ensure a greater participation of indigenous peoples in IUCN conservation initiatives and policy development;

b) to recommend that IUCN Regional and Country Offices establish institutional mechanisms to enable indig-

enous peoples to participate in regional programmes;

c) to recommend that IUCN Commissions facilitate the participation of indigenous peoples in their activities;

d) to obtain as much as possible of the funds necessary to continue supporting the processes initiated at the regional level, for example, in the Southern Africa Region with the Network on Indigenous Knowledge Systems (SARNIKS); in Meso-America with the Working Group of Indigenous Peoples and Protected Areas; in the Amazon with the agreement with the Confederation of Organizations of Indigenous Peoples from the Amazon Basin (COICA) for the development of conservation policies in the Amazon in areas inhabited by indigenous peoples; and in other regions where there is an interest to develop activities;

2. CALLS UPON IUCN members to:

a) facilitate effective participation of indigenous peoples in their programmes;

b) consider the adoption and implementation of the objectives of ILO Convention No. 169 and the Convention on Biological Diversity, and comply with the spirit of the draft of the UN Declaration on the Rights of Indigenous Peoples, as well as adopt policies, programmes and laws which implement Chapter 26 of Agenda 21;

c) promote and support the objectives of the International Decade of the World's Indigenous People.

Note: This Resolution was adopted by consensus. The delegations from Australia, Germany, New Zealand, Switzerland, the United Kingdom and the United States indicated that had there been a vote they would have abstained. In the case of New Zealand, this was because their country had not adopted or ratified ILO Convention 169 because of the special position accorded to the Maori people by the Treaty of Waitangi, 1840. In the case of the United States, it was considered the Resolution used the term 'indigenous peoples' without clarifying its implications with regard to the right of self-determination and the right to sovereignty over natural resources, and that this usage does not correspond with that used in many international instruments and fora. The delegation from India dissociated itself from this Resolution because the Government of India does not recognise indigenous peoples as distinct from other social groups.

The use of the term 'indigenous peoples' in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.

1.50 Indigenous Peoples, Intellectual Property Rights and Biological Diversity

RECOGNISING that each member country should implement at the national level the terms of the Convention on Biological Diversity through appropriate national policies and instruments;

CONSIDERING that indigenous knowledge and cultural practices are important elements of biological diversity;

CONSCIOUS that knowledge and innovation of indigenous peoples and local communities through collective practices of conservation, selection and improvement of biodiversity elements should be valued, respected and protected;

CONCERNED that traditional knowledge of indigenous peoples is often being used without fair compensation;

ACKNOWLEDGING the terms specified by ILO Convention No. 169 and the provisions of the Convention on Biological Diversity about the role of indigenous peoples in the management, use and conservation of biodiversity;

TAKING INTO ACCOUNT that the World Trade Organization's Agreement on Trade-Related Intellectual Property Rights (TRIPS) recognises the possibility to establish *sui generis* systems of intellectual property rights;

CONSIDERING the recommendations and guidelines established in Chapter 26 of Agenda 21;

CONSIDERING the principles established in the UN draft Declaration on the Rights of Indigenous Peoples;

CONSIDERING that *Caring for the Earth* recognises the role of indigenous peoples in sustainable development and their rights to manage their natural resources;

TAKING INTO ACCOUNT Recommendation 18.16 of the 18th Session of the IUCN General Assembly and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples;

The World Conservation Congress, at its 1st Session in Montreal, Canada, 14-23 October 1996,

REQUESTS the Director General, Commissions, members and Councillors of IUCN, within available resources, to participate actively in and support the development of appropriate mechanisms at the national and international level, so as to ensure:

a) effective participation of indigenous peoples in planning and decision-making processes, particularly in relation to the Convention on Biological Diversity concerning their role and collective interests;

b) recognition of the rights of indigenous peoples over their lands or territories and natural resources, as well as their role in management, use and conservation, as a requirement for the effective implementation of the Convention on Biological Diversity and the achievement of its objectives;

c) respect for cultural diversity, including linguistic diversity, as a basic condition to maintain and protect indigenous knowledge and comply with the provisions of the Convention on Biological Diversity;

d) establishment of a process which facilitates the recognition of indigenous peoples' knowledge as the intellectual property of its holder;

e) the recognition of the rights of Indigenous Peoples over their lands, territories and natural resources, as a basis to ensure the maintenance and development of indigenous knowledge;

f) the recognition of the principle that use of the knowledge, innovations and practices of indigenous peoples and local communities be made with their approval and consultation, and that indigenous peoples and local communities must share equitably in the benefits deriving from such use;

g) the establishment of national policies to ensure the promotion, recovery, systematisation and strengthening of indigenous knowledge related to biodiversity with the prior informed consent of the peoples concerned;

h) the strengthening of the capacity of indigenous peoples to protect and effectively exercise their rights over their lands and natural resources as fundamental for the conservation of biodiversity and the achievement of sustainable development;

i) the protection of the genetic resources of indigenous peoples not only on biological diversity but also on human genes.

Note: This Resolution was adopted by consensus. The delegations from Australia, Germany, New Zealand, Norway, Switzerland and the United States indicated that had there been a vote they would have abstained, in the case of New Zealand and the United States for the reasons given under Resolution 1.49. The delegation from India dissociated itself from this Resolution for the reasons given under Resolution 1.49. The delegation from the United Kingdom indicated that had there been a vote the delegation would have voted against.

The use of the term "indigenous peoples" in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.

1.51 Indigenous Peoples, Mineral and Oil Extraction, Infrastructure and Development Works

RECALLING that the extraction of mineral resources and oil constitutes a significant part of the global economy;

CONSCIOUS that these activities are a significant source of income for many countries;

RECALLING that the extraction of minerals and oil in areas inhabited by indigenous peoples has in most cases not directly and substantially benefited these peoples and has led to a deterioration of the quality of life and their cultures;

RECOGNISING that even if in many countries it is the State which has or exercises rights over the use of the subsurface and the extraction of subsurface resources, it is the State which must also ensure the common good and the rights of indigenous peoples;

CONSIDERING that it is possible to extract minerals and oil with methods which are environmentally adequate and economically equitable, and that some countries and companies have made significant progress in these matters;

CONCERNED about the negative impacts generated by mineral and oil concessions granted in the lands or territories of indigenous peoples in different parts of the world;

CONCERNED also that in many instances the participation and approval of indigenous peoples are excluded from the process of decision-making regarding investments and activities involving non-renewable natural resources and infrastructure works in their lands or territories including coastal areas;

CONSIDERING the recommendations and guidelines established in Chapter 26 of Agenda 21;

TAKING INTO ACCOUNT the principles under consideration in the Draft UN Declaration on the Rights of Indigenous Peoples;

RECOGNISING that *Caring for the Earth* highlights the role of indigenous peoples in sustainable development and their rights in the management of natural resources;

TAKING INTO ACCOUNT Recommendation 18.16 of the 18th Session of the IUCN General Assembly and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples;

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REQUESTS the Director General, the Secretariat and its technical programmes, the Commissions, members and Councillors of IUCN, within available resources, to participate in the development and support of a clear policy on the use of non-renewable natural resources which includes criteria for the conservation of natural resources and respect for the rights of the world's indigenous peoples, based on the following principles:

a) recognise, respect and comply with the rights of indigenous peoples over their lands or territories and natural resources, as a condition for achieving sustainable development;

b) consider the adoption and implementation of the objectives of ILO Convention No. 169 and the Convention on Biological Diversity, and comply with the spirit of the draft UN Declaration on the Rights of Indigenous Peoples, as well as adopt policies, programmes and laws which implement Chapter 26 of Agenda 21;

c) respect the rights and interests of indigenous peoples in all activities connected with extracting non-renewable natural resources, including geological surveys, mineral exploration, claim-staking, infrastructure and development works, and adopt adequate measures to minimise environmental, health, cultural and social impacts;

d) adopt measures to compensate indigenous peoples for damages to their lands or territories;

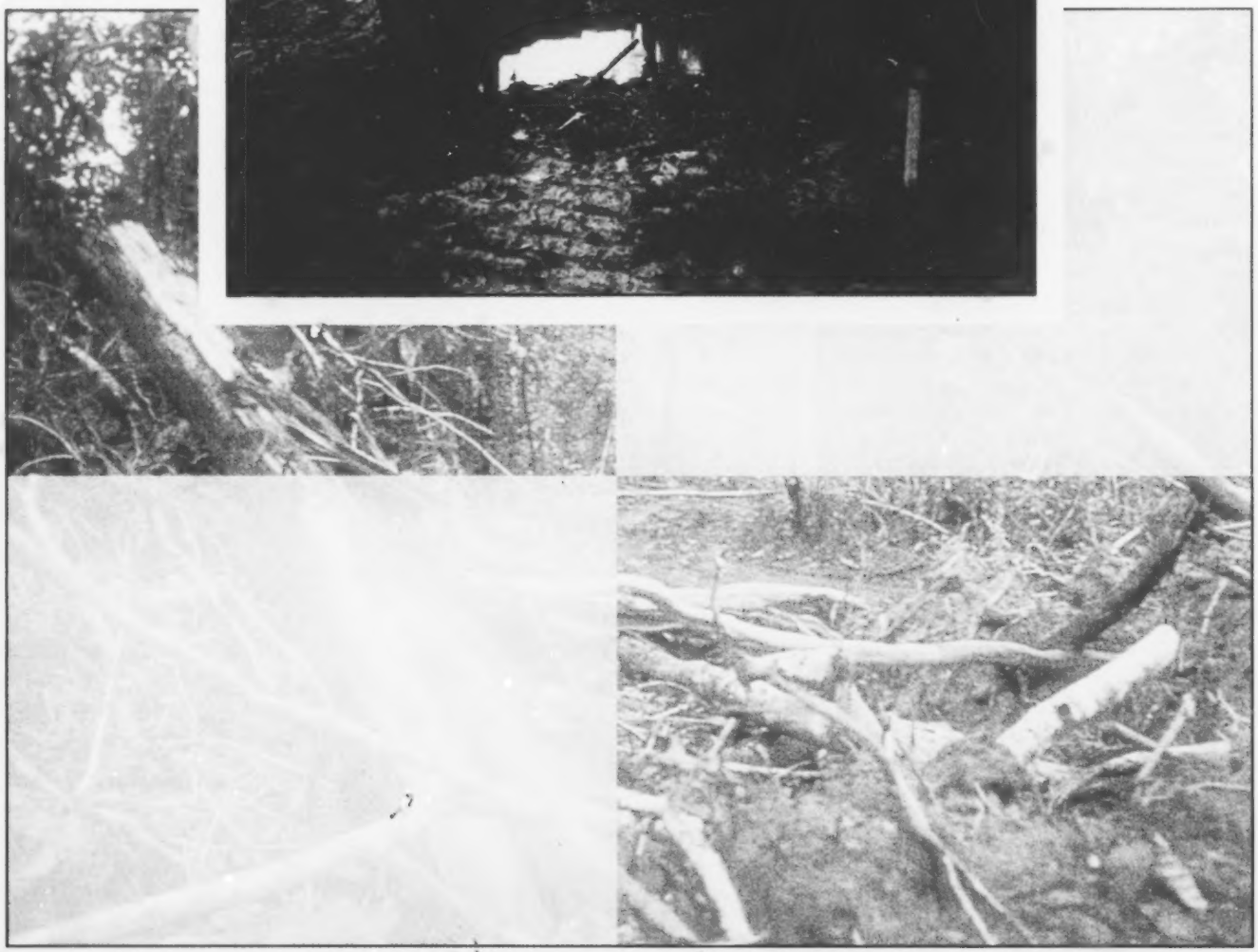
e) design and execute development plans with the equitable participation of all parties concerned recognising their needs and cultural characteristics;

f) promote effective participation and previous agreements with indigenous peoples in the design, adoption, implementation and monitoring of processes, projects, and legislative and administrative policies regarding the exploration and exploitation of non-renewable resources that might affect their lands or territories and natural resources;

g) facilitate the establishment of mechanisms for the negotiation between indigenous peoples, the State and other interested parties to promote the equitable resolution of conflicts arising from the use or potential use of natural resources.

Note: This Resolution was adopted by consensus. The delegations of the members-states Australia, Germany, New Zealand, Norway, Switzerland, United Kingdom and United States indicated that had been a vote they would have abstained, in the case of New Zealand and the United States for the reasons given under resolution 1.49. The delegation of the member-state India dissociated itself from this Resolution for the reasons given under Resolution 1.49.

The use of the term 'indigenous peoples' in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.



1.52 Indigenous Peoples and Marine and Coastal Areas

RECALLING that the coastal areas of Latin America, Africa, Asia, the Arctic and small island

States have been the traditional home of indigenous peoples;

RECALLING that the indigenous peoples have made wise and sustainable use of natural resources in such areas;

AWARE that the industrial exploitation of natural resources is nowadays carried out indiscriminately and produces serious damage to the resources and lives of indigenous peoples;

CONSIDERING the terms of ILO Convention No. 169 and the provisions of the Convention on Biological Diversity, regarding the role and collective interest of indigenous peoples with respect to the management, use and conservation of biodiversity;

CONSIDERING the recommendations and guidelines established in Agenda 21;

CONSIDERING the principles established in the draft UN Declaration on the Rights of Indigenous Peoples;

CONSIDERING the emphasis placed in *Caring for the Earth* on the role of indigenous peoples in sustainable development and their rights in the management of natural resources;

MINDFUL of the recommendations of the 18th Session of the IUCN General Assembly, and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples, specifically those relating to coastal and marine areas;

CONSIDERING the economic, cultural and spiritual value of coastal and marine areas for indigenous peoples;

CONCERNED that the development of industrial activities in these areas, with the well-known contamination and overexploitation of resources, has led to displacement and loss of quality of life for many indigenous peoples;

CONCERNED that the system of quotas and closed seasons, as well as international campaigns in favour of animals, often fail to take account of the independence of indigenous peoples on these resources;

The World Conservation Congress at its 1st Session in Montreal, Canada, 14-23 October 1996,

REQUESTS the Director General, the Secretariat and technical programmes, Commissions, members and Councillors of IUCN, within available resources, to endorse, support, participate in and advocate the development of a clear policy in favour of conservation of marine and coastal areas in the world based on the following principles:

a) recognition of the role and collective interest of indigenous peoples taking into account the terms of ILO Convention No. 169, the Convention on Biological Diversity, and the principles proposed in the draft UN Declaration on the Rights of Indigenous Peoples;

b) recognition of the rights of indigenous peoples to make use of natural resources on their lands or territories in marine and coastal areas in an equitable and ecologically sustainable way;

c) the active participation of indigenous peoples in the establishment of quotas and closed seasons, as well as in international campaigns in favour of sustainable use of animals and other natural resources.

Note: This Resolution was adopted by a show of hands. The delegations of the member-states Australia, Germany, New Zealand, Norway, Switzerland and United States indicated that they had abstained, in the case of New Zealand and the United States for the reasons given under Resolution 1.49. The delegation of the member-state India dissociated itself from this Resolution for the reasons given under Resolution 1.49. The delegation of the member-state United Kingdom indicated that the delegation had voted against. The delegation of the member-state Denmark stated that it was not in agreement with the amendment whereby the phrase 'in an equitable and ecologically sustainable way' was added to Operative Paragraph (b), not because the Danish Government considers 'indigenous' territories should not be used sustainably but because it considers the rights of indigenous peoples to their lands are no less sovereign than the rights of sovereign states.

The use of the term 'indigenous peoples' in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.

1.53 Indigenous Peoples and Protected Areas

RECALLING that some protected areas have been established on indigenous lands and territories without the consent and participation of the affected people;

CONSIDERING the terms of ILO Convention No. 169 and those of the Convention on Biological Diversity, regarding the role of indigenous peoples with respect to the management, use and conservation of biodiversity;

CONSIDERING the recommendations and guidelines established in Agenda 21;

CONSIDERING the emphasis placed in *Caring for the Earth* on the role of indigenous peoples in sustainable development and their rights in the management of natural resources;

CONSIDERING the recommendations of the IVth World Congress on National Parks and Protected Areas, calling for the development of policies for protected areas which safeguard the interests of indigenous peoples;

RECOGNISING that several governments have already adopted policies and measures to fully incorparate the rights and interests of indigenous peoples in the establishment and management of protected areas within their lands and territories;

The World Conservation Congress at its 1st Session in Montreal, Canada, 14-23 October 1996:

1. REQUESTS the Director General, the Secretariat and technical pro-

grammes, Commissions, members and Councillors of IUCN, within available resources, to endorse, support, participate in and advocate the development and implementation of a clear policy in relation to protected areas established in indigenous lands and territories, based on the following principles:

a) recognition of the rights of indigenous peoples with regard to their lands or territories and resources that fall within protected areas;

b) recognition of the necessity of reaching agreements with indigenous peoples prior to the establishment of protected areas in their lands or territories;

c) recognition of the rights of the indigenous peoples concerned to participate effectively in the management of the protected areas established on their lands or territories, and to be consulted on the adoption of any decision that affects their rights and interests over those lands and territories;

2. URGES all IUCN members to establish appropriate mechanisms at the national level, for the development and implementation of policies on protected areas and indigenous peoples that are cosistent with these principles;

3. REQUESTS the World Commission on Protected Areas to establish closer links with indigenous peoples' organizations, with a view to incorporating the rights and interests of indigenous peoples in the application of the IUCN Protected Area Management Categories.

1.54 Indigenous Peoples and Conservation in Meso-America

RECOGNISING that the indigenous peoples of Meso-America have played an important role in maintaining biological diversity in the region;

BEARING IN MIND that the greatest concentration of biological diversity in the region coincides with the areas inhabited by indigenous peoples;

AWARE that despite their age-old skill in the management and use of natural resources the indigenous peoples of the region have not been invited to participate in national conservation strategies;

CONSIDERING the terms of ILO Convention No. 169 and the provisions of the Convention on Biological Diversity, regarding the rights of indigenous peoples with respect to the management, use and conservation of biodiversity;

CONSIDERING the recommendations and guidelines established in Agenda 21;

CONSIDERING the principles established in the draft UN Declaration on the Rights of Indigenous Peoples;

CONSIDERING the emphasis placed in *Caring for the Earth* on the role of indigenous peoples in sustainable development and their rights in the management of natural resources;

MINDFUL of the recommendations of the 18th Session of the IUCN General Assembly, and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples, specifically Resolution 19.19 on Support for the Implementation of *Caring for the Earth* in the Meso-American Region;

RECALLING that in its initiative on indigenous peoples and conservation IUCN supported the establishment of the Meso-American Working Group on Indigenous Peoples and Protected Areas;

CONCERNED that most conservation actions at the regional level fail to consider the rights and knowledge of indigenous peoples regarding natural resources;

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REQUESTS the Director General, the Secretariat and technical programmes, Commissions, members and Councillors of IUCN, within available resources, to endorse, support, participate in and advocate the development of a clear policy in favour of protected areas based on the following principles:

a) recogniton of the rights of indigenous peoples taking into account the terms of ILO Convention No. 169, the Convention on Biological Diversity and the principles proposed in the draft UN Declaration on the Rights of Indigenous Peoples;

b) recognition of the rights of indigenous peoples to make use of natural resources on their lands or territories in an equitable and ecologically sustainable way;

c) support for the development and consolidation of the Meso-American component of the Indigenous Peoples and Conservation Initiative;

d) the establishment of mechanisms for effective participation by indigenous peoples in the identification, design, planning, implementation and monitoring of conservation initiatives in the region;

e) support for the implementation by indigenous peoples of management and regional development plans on their territories.

Note: This Resolution was adopted by consensus. The delegations of the member-states Australia, Germany, New Zealand, Norway, Switzerland, the United Kingdom and the United States indicated that had there been a vote they would have abstained, in the case of New Zealand and the United States for the reasons given under Resolution 1.49. The delegation of the member-state India dissociated itself from this Resolution for the reasons given under Resolution 1.49.

The use of the term 'indigenous peoples' in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.

1.55 Indigenous Peoples and Forests

RECALLING that forests in many places have been and still are home to numerous indigenous peoples;
RECALLING that forests and nature in general are not only a natural resource for

indigenous peoples, but allow a harmonious way of living that has served as an example and guide to these societies, and a space for life of spiritual and cultural value;

AWARE that, based on colonial methods of exploiting natural resources, the forests of the world inhabited by indigenous peoples have been exploited;

CONSIDERING the terms of ILO Convention No. 169 and the provisions of the Convention on Biological Diversity regarding the rights of indigenous peoples with respect to the management, use and conservation of biodiversity;

CONSIDERING the recommendations and guidelines established in Agenda 21;

CONSIDERING the principles proposed in the draft UN Declaration on the Rights of Indigenous Peoples;

CONSIDERING the emphasis placed in *Caring for the Earth* on the role of indigenous peoples in sustainable development and their rights in the management of natural resources;

MINDFUL of the recommendations of the 18th Session of the IUCN General Assembly and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples, and specifically those referring to forests;

RECOGNISING that many natural forested areas which still survive are today mostly inhabited by indigenous peoples;

GIVING due consideration to global forest dialogue, including work elements being addressed under the Intergovernmental Panel on Forests (IPF);

CONCERNED that the growing international interests in forests sometimes does not consider the interests of indigenous peoples living there nor consider forests as the home of indigenous peoples;

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REQUESTS the Director General, the Secretariat and the technical programmes, Commissions, members and Councillors of IUCN, within available resources, to work collaboratively with the Intergovernmental Panel on Forests and the Convention on Biological Diversity to support, participate in and advocate the development of forest policy which considers the following principles:

a) recognition of the rights of indigenous peoples taking account of the terms of ILO Convention No. 169, and the principles proposed in the draft UN Declaration on the Rights of Indigenous Peoples;

b) recognition of the rights of indigenous peoples to use the natural resources on their lands or territories in an equitable and ecologically sustainable way;

c) recognition of the need to ensure effective participation by indigenous peoples in the strategic planning and implementation of all activities on their forest lands.

Note: This Resolution was adopted by consensus. The delegations of the member-states Australia, Germany, New Zealand, Norway, Switzerland and the United States indicated that had there been a vote they would have abstained, in the case of New Zealand and the United States for the reasons given under Resolution 1.49. The delegation of the member-state India dissociated itself from this Resolution for the reasons given under Resolution 1.49.

The use of the term 'indigenous peoples' in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.

1.56 Indigenous Peoples and the Andes

RECALLING that the indigenous peoples inhabiting the Andes have developed cultures adapted to their social and political structure, and to the optimal management, use and conservation of their natural living resources;

RECALLING that the wildlife of the Andes constitutes a genetic base for the development of improved varieties and races, especially those related to world food security;

RECALLING that the technologies developed by ancestral Andean cultures for the domestication, use and conservation of wildlife species were ideal;

RECALLING that many strategic resources originate in the Andes, including water, food, soil and minerals, and in some cases energy, intimately related to the Amazon region and the coastal and marine areas;

RECALLING that the degradation of living natural resources in their places of origin has continued without interruption since the colonial occupation;

CONSIDERING the terms of the ILO Convention No. 169 and those of the Convention on Biological Diversity, regarding the role and collective interest of indigenous peoples with respect to the management, use and conservation of biodiversity;

CONSIDERING the recommendations and guidelines established in Agenda 21;

AWARE of the principles under consideration in the draft UN Declaration on the Rights of Indigenous Peoples;

CONSIDERING the emphasis placed in *Caring for the Earth* on the role of indigenous peoples in sustainable development and their rights in the management of natural resources;

MINDFUL of the recommendations of the 18th Session of the IUCN General Assembly, and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples, specifically those referring to forest life;

RECOGNISING that IUCN has mad a considerable effort with its Sustainable Use Initiative, and that many NGOs which are members of IUCN are adopting this approach;

TAKING INTO ACCOUNT the constant loss of indigenous knowledge and genetic diversity of wildlife species;

CONCERNED by the lack of viable, coherent and operational national environmental policies promoting the sustainable use of living natural resources;

CONCERNED by the high degree of water pollution from excessive, irresponsible use by mining interests, industry, local authorities and others, in disregard of the availability of appropriated technologies;

CONCERNED at the accelerating growth of poverty in the Andean ecosystems, which obliges Andean populations to use living natural resources indiscriminately;

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REQUESTS the Director General, the Secretariat and technical programmes, Commissions, members and Councillors of IUCN, within available resources, to endorse, support, participate in and advocate the development of a clear policy in favour of the sustainable use of natural resources in the Andes based on the following principles:

a) recognition of the role and collective interest of indigenous peoples taking account of the terms of ILO Convention No. 169, the Convention on Biological Diversity, and principles proposed in the draft UN Declaration on the Rights of Indigenous Peoples;

b) recognition of the political will of Andean nations to abide by international agreements and conventions related to indigenous peoples and the environment of the Andes;

c) the establishment of national policies to reduce poverty in the Andes, especially for the purpose of also ensuring the survival of species and the conservation and use of living natural resources;

d) the establishment of national policies for the promotion, recovery, systematisation and improvement of indigenous knowledge on the elements of biodiversity;

e) the establishment of frameworks and mechanisms for negotiations between indigenous peoples, other groups of people, governments and companies ensuring fair settlements of conflicts;

f) guaranteeing the intellectual property rights of indigenous peoples with respect to living natural resources and their indigenous knowledge, as well as the protection and recognition of and equitable participation in the benefits derived from traditional knowledge.

Note: This Resolution was adopted by consensus. The delegations of the member-states Germany, New Zealand, Norway, Switzerland, the United Kingdom and the United States indicated that had there been a vote they would have abstained, in the cases of New Zealand and the United States for the reasons given under Resolution 1.49.

The use of the term 'indigenous peoples' in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.

1.57 Southern African Regional Network on Indigenous Knowledge Systems (SARNIKS)

CONSIDERING that the majority of the peoples of southern Africa are indigenous to the region;

RECOGNISING the accelerating degradation of the natural resources and impoverishment of the peoples of Africa and elsewhere;

RECOGNISING also the close links between development and environmental conservation and the sustainable use of natural resources as noted by Agenda 21, *Caring for the Earth*, etc.;

NOTING the importance of social, cultural, economic pressures on natural resources in the region;

REFERRING to the initiatives of Indigenous Knowledge Systems (IKS) started by a number of concerned citizens and institutions in southern Africa over the last several years;

GUIDED by the spirit and the resolutions by people from the region assembled at a number of fora in the region;

IN RECOGNITION of the vibrancy of IKS in the majority of the communities in southern Africa;

IN RECOGNITION especially of the marginalized indigenous peoples of the region;

NOTING the significant dependance of the communities on the use of IKS;

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CALLS ON governments in southern Africa:

a) to adapt legal systems to protect IKS and promote and protect ownership rights over natural resources including equitable sharing of benefits with local communities;

b) to formulate policy frameworks that make IKS an integral part of national development and biodiversity conservation and utilization strategies;

c) to make available adequate resources to enable communities in southern Africa to document, and undertake research towards enhancing, their indigenous knowledge systems.

Note: This Recommendation was adopted by consensus. The delegations of the member-states Germany, Norway, Sweden, Switzerland and the United States indicated that had there been a vote they would have abstained.

The use of the term 'indigenous peoples' in this Recommendation shall not be construed as having any implications as regards the rights which may attach to that term in international law. ❑

Statement by Les Malezer on behalf of Foundation for Aboriginal and Islander Research Action, Aboriginal Corporation Australia, UNWGIP, Geneva 1997

Thank you Madam Chair.

I speak on behalf of the Foundation for Aboriginal and Islander Research Action, also known as FAIRA.

The statement draws to the attention of the Working Group the recent developments for the Aboriginal Peoples in Australia in relation to the recognition and exercise of their human rights, especially indigenous rights.

It is with regret that I state that this report to the 15th Session of the Working Group on Indigenous Populations continues the gravity of concerns raised in our report to the 14th Session of the Working Group, that respect for the human rights of the Aboriginal Peoples of Australia is deteriorating.

The change in the national government of Australia in 1996 exposed the rudimentary weaknesses of infrastructures developed in Australia to protect human rights, particularly the rights of the indigenous peoples of Australia.

I seek to give reference some of these infrastructures in turn.

ATSIC

Much emphasis has been made to the Working Group that the Aboriginal and Torres Strait Islander Commission, or ATSIC, represents the exercise of indigenous self-determination in Australia. This assertion continues to be a divisive issue in our community as to wether ATSIC is in fact a governmental organisation or a non-governmental organisation.

I urge the Working Group to please note that the Australian government decided in late 1996 to renege on a long standing commitment to the Aboriginal peoples to have an elected head of the Commission. The government proceeded in late 1996 to abolish plans for an elected Chairperson of ATSIC, and appointed instead a non-elected person as the national Chairperson.

I must mention that my reference to this fact implies no criticism of the integrity of the appointee as an Aboriginal leader, it is a comment on the interpretation by the government of self-determination for the Aboriginal peoples.

The Minister for Aboriginal and Torres Strait Islander Affairs directed in 1996 that a special audit be conducted on 1,100 Aboriginal organisations receiving fund from ATSIC. The direction was ultimately appealed under law by one of the affected organisations, and subsequently overturned by the courts.

However, ATSIC, which had abided by the Minister's instructions without seeking legal remedy, implemented the direction to the detriment of the interests of the 1,100 affected organisations, presumably, and maybe wisely, on the basis that it was not in ATSIC's interest, politically, to challenge such a direction by the Minister. Who could blame them in these circumstances?

Further, the government acted, in September 1996, to cut $470 million from the ATSIC budget over a four year period, and, in doing so, the government included sufficient specific instructions to prevent ATSIC from altering three certain programmes. These three programmes represented over 60 % of the total budget available to ATSIC.

a) *CDEP - Community Employment Development Projects*

CDEP is the 'unemployment programme' where Aboriginal people work for the same unemployment benefits payments that other Australians can receive without having to work. CDEP represents 30% of the total ATSIC budget, totalling over $300 million.

Incidentally, the government is aware Aboriginal unemployed persons engaged under the CDEP programme receive less money per week than their non-Aboriginal counterparts. This anomaly arises because Aboriginal people who are engaged under CDEP are officially removed from the government register of unemployed persons and are therefore ineligible for related discounts of subsidies for items such as rent, travel or medicines.

The direct effect of this statistical alteration in official unemployment status is that the true extent of Aboriginal unemployment and economic disadvantage is not revealed in the official labour market statistics and forcible criticism is avoided - 40% of the Aboriginal workforce is engaged under the CDEP programme, which means that Aboriginal unemployment, in rounded terms, at the national level is 70%.

The indirect effect is that the understatement of Aboriginal unemployment avoids the most critical and major intervention that government should be making to achieve equitable outcomes for the Aboriginal people, both in the workforce and in the fair share of overall economic wealth distributed amongst the population of Australia.

b) *Housing and Infrastructure*

The housing and infrastructure program is a special measure by the government to increase the quantity and quality of housing available for Aboriginal people and to provide Aboriginal communities in more remote locations with better infrastructure services such as water supply, waste treatment and roadwork. This programme is also regarded as a means for health improvement through better environmental conditions.

c) *Native Title Representative Bodies*

This programme was protected from budget cuts because it was a recent initiative of government and is inextricably linked to central legislation on Native Title. The government acknowledged the risk of re-ducing funding to the representative Bodies at a time when it claimed the Native Title Act was 'not workable'. ATSIC supported the position that this programme should not be cut.

The true effect of the ATSIC budget cut of $470 million was that the remaining programmes which were not declared 'sacrosanct' by government were devastated. By this very process the government priorities, emphasised in the protected programmes, were implemented and the ATSIC priorities which were not consis-

tent with the government's priorities, were overturned.

The dramatic budget cutbacks, which were forced by the government to apply to the remaining third of the ATSIC budget, impacted heavily on those programmes upon which many of the Aboriginal organisations depended for their local community infrastructures and support networks.

ATSIC Regional Councils were originally intended to be the centre of decision-making, in terms of financial and policy matters, for the Aboriginal Peoples. The Regional Councils provided a decentralised model for the election of Aboriginal representatives and for local decision-making and accountability.

Three years ago ATSIC published information which announced that 60% of its total programme funds were allocated through the ATSIC Regional Councils.

In 1997-98 less than $50 million, that is no more than 5% of the total financial programmes of ATSIC, are allocated through the Regional Councils. Almost the entire budget is now either dictated by the government or distributed by the Commissioners via a centralised process.This is not the degree of indigenous decision-making first offered by the government in 1990 when it legislated to create ATSIC as the indigenous commission.

Madam Chair, the point of this detail about ATSIC is to bring forth the issue of indigenous rights - does the government consider ATSIC to be an Aboriginal authority, a body autonomous from Ministerial intervention, and a body free from political constraint by government in its statutory financial responsibilities? Obviously, the image of ATSIC as one model for self-determination, as previously proposed by the Australian Government to this Working Group, has been clearly spoiled by the government actions and responses during the past twelve months, to intervene in ATSIC functions and to make inappropriate and irrelevant directions.

ABORIGINAL AND TSI SOCIAL JUSTICE COMMISSIONER

The national Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Dodson, was condemned by the government this year, as being treacherous, for criticising the government's rejection of two major recommendations from the 'Stolen Children' report. Mick Dodson was commenting, at an International Conference on the Rights of the Child, on the recommendations regarding a national apology and financial compensation to the victims.

While we are gathered in this Working Group Session the Australian government is making plans to end the role of an Aboriginal and Torres Strait Islander Social Justice Commissioner. We are awaiting official announcement in Australia whether the government is to remove the special commissioners from the Human Rights structures.

Of course, this change in infrastructure has not been discussed with the Aboriginal peoples. I have no doubt that there would be, amongst our people, overwhelming support for the continued role of the Aboriginal and Torres Strait Islander Social Justice Commissioner if they were to be consulted. Surely this factor must be one of the principal criteria for government to determine whether the special commissioner position should be retained.

The position is at risk of abolition at the most critical time in Australia's modern history on race relations.

COUNCIL FOR ABORIGINAL RECONCILIATION

The council for Aboriginal Reconciliation was established in 1991 by the Australian Parliament to raise the prospects of formal 'reconciliation' or settlement between the Aboriginal peoples and Australian nation by the Year 2001.

Although the indigenous people of Australia have clearly called for settlement through a treaty or treaties, the government compromised any debate, and its own concerns, about the sovereignty of the Aboriginal peoples by emphasising the process, that of 'reconciliation', and establishing a reasonable time line, one decade to the Year 2001, to achieve 'reconciliation'.

Madam Chair, I am sorry to announce that the budget of the Council of Aboriginal Reconciliation was cut by 25% in September 1996, from a budget of $4.0 million to $3.0 million.

This budget cut was not accompanied by any clear statements to the indigenous peoples to clarify whether the government's had lessened its commitment to reconciliation or, if indeed the government had not lessened its commitment, to inject some leadership to the reconciliation process to be conducted over the remaining three years to the Year 2001.

Madam Chair, last year we made clear reference to the growing racism in Australia against the Aboriginal peoples, and other ethnic groups particularly Asian peoples.

That racism has continued to ferment, to become in 1997 a major international issue for Australia. While the Asian nation-states can cause the Australian government and the Australian people to reflect upon the consequences of overt racism against the Asian peoples,having at hand the ability to impose economic sanctions against Australia, the Aboriginal peoples cannot generate any similar aura of adverse repercussions for racial intolerance.

We can clearly report the growing incidence of racial vilification, racial violence and establishment of racist organisations such as the Ku Klux Klan. In 1997 we are witnessing the most demonstrative acts of covert racism this century in Australia.

In our previous report we also gave information on the worsening social conditions for Aboriginal people.

We reported that the Australian Government deliberately leads the public attack on indigenous rights with invidious attacks on basic entitlements such as na-tive title and cultural distinction.

We announced the Australian government's intention to increase State and Territory government control of Aboriginal affairs as a deliberate attempt to curb the progressive recognition of Aboriginal rights and interests.

We said the Australian government had tabled in the Parliament amending laws to weaken ATSIC and inhibit native title rights.

Let me now give some evidence of the continued worsening social conditions during the past twelve months.

A recent report revealed that over 40% of all children held in custody are Aboriginal children, despite being less than 3% of the population.

The Aboriginal imprisonment rates have increased, and the rates of deaths in custody has increased since the official government responses to the Royal Commission into Aboriginal Deaths in Custody.

Contrary to the earlier findings of the Royal Commission, the number of Aboriginal deaths in custody is now higher

per capita for the number of Aboriginal people held in custody than for non Aboriginal people.

Despite over two hundred deaths of Aboriginal people in custody, over the past fourteen years, no criminal charges against the police or prison authorities have been laid.

The life expectancy of Aboriginal people continues to be twenty years below the life expectancy of all other Australians. Aboriginal men between the ages 35 years and 44 years are 7.5 times more likely to die than other men of that age.

Madam Chair, these statistics go on and on. There can be no doubt - NO DOUBT - in anyone's mind, that government policies have failed. For those who might doubt the reasons, we support the fundamental findings and recommendations of the Royal Commission into Aboriginal Deaths in Custody.

These recommendations speak of empowerment, self-determination and land rights.

By contrast the government seeks to blame the Aboriginal people themselves for their social status.

The Minister for Health has claimed that poor Aboriginal health exists because Aboriginal people drink and smoke too much.

The Minister for Aboriginal and Torres Strait Islander Affairs blames the Aboriginal leadership for being loud, unrepresentative and self-interested.

The Minister for Aboriginal and Torres Strait Islander Affairs has implied, by his directions for a special audit, that the unacceptable social indicators highlighting Aboriginal disadvantage are the result of waste, incompetence and failure by ATSIC and the Aboriginal service organisations.

The Prime Minister accuses the court rulings, on the survival of traditional Aboriginal 'Native Title' in 1997, of having 'gone too far in favour of the Aboriginal people' and in need of amendment by parliament.

The Prime Minister believes that responsibility for Aboriginal affairs should be returned to the State and Territory governments of Australia.

The Prime Minister accuses the Aboriginal peoples of being in receipt of taxpayers moneys and lacking accountability to those taxpayers.

Madam Chair, I now draw attention to the debate in Australia about Native Title. Last, year, we claimed that the government had decided unilaterally, without any support or encouragement from the indigenous peoples, to amend the native title laws in Australia.

We questioned how the government could take such action and lawfully defend the resulting legislation which would provide protection of property rights and entitlements in Australia according to race, as a special measure in the terms of the International Convention on the Elimination of All Forms of Racial Discrimination.

We now discover the answer has been provided in the draft legislation in parliament which will prevent the Australian courts from giving interpretation to the international treatise signed by the Australian government. This legislation, roughly the 'Administrative Decisions (International Instruments) Bill', will change the current (albeit recently determined by the High Court) practice for legal interpretation of Australian law, by examining any relevant signed treaty where no relevant statute exists.

Should this bill become law it may prevent the Aboriginal people from making a legal challenge to federal native title legislation which is deliberately intended to be racially discriminatory.

I have recently participated as one member of a small indigenous delegation to Europe on Native Title matters. That delegation was appointed by the National Indigenous Working Group on Native Title, a highly representative affiliation of (approximately) thirty organisations with responsibility for land rights and national indigenous rights.

The delegation was commissioned to bring to international attention the major breaches in human rights against the Aboriginal Peoples in Australia. These breaches included existing and impending official actions by the government. I table with this speech the documentation provided by that delegation to government and non-governmental organisations during the European round of visitations.

Madam Chair, this report does not further elaborate on the native title concerns of the indigenous peoples of Australia as the documentation which I have tabled does adequately present the official position from the national representatives. Further, I do not have a specific mandate from the national representatives to make additional submission on their behalf to this Working Group. However, I would like to take the opportunity to make some personal observations relevant to the protection of human rights, which have occurred to me as a result of my experience in the native title delegation.

As the first issue, I would like to stress the importance of recognising and promoting the human rights of the indigenous peoples as an international concern. This responsibility appears to have been formally acknowledged already by certain European countries and the European Parliament.

Unfortunately, the responsibility does not seem to have been accepted by Australia. The national and state/territory governments of Australia have recently, on more than one occasion, attacked Aboriginal leaders advocating indigenous rights - human rights - in the international community.

Our leadership has in the past six months been routinely accused of being traitors to the nation, unrepresentative and self interested, in most instances the leaders subjected to these criticisms were defending native title property rights.

These accusations might be expected from members of the public, ignorant of the concepts of fundamental rights of people in a free world, but could not be acceptable from the political leaders of developed countries, like Australia.

Ironically, at least one of these political leaders has also expressed contempt of the judicial office of the High Court of Australia, proposed unconstitutional actions to end Aboriginal property rights, and participated in acts of public vilification - while at the same time accusing Aboriginal leaders of treachery.

As I emphasise later in this speech it is important that governments and non-governmental organisations maintain their international interest in the protection of human rights for indigenous peoples.

The second issue is the general misconception that Indigenous Peoples in 'first world' countries, such as Australia, do not require attention at the international level. This misconception may be associated with the belief that the 'first world' nations do no not commit major breaches of human rights.

Many people, with whom the Aboriginal delegation met, were amazed to hear of the socio-economic disadvantages of

the Aboriginal people in Australia, the oppressive environment of racism, and the failure in Australia to implement national land rights reform.

While our contacts were aware of such issues in 'Third World' countries they did not have appreciation of the desperate situations also confronting indigenous peoples in first world countries. We would therefore urge European countries at least to consider the situation of indigenous peoples in first world countries as well as third world countries.

The third issue which I wish to elaborate is my awareness that some nation-states in Europe actually assist and encourage non-governmental organisations (NGOs) to increase access to their parliaments and its elected members. This openness in communications was completely foreign to my experiences, which are extensive, in dealing with any of the governments of Australia. More international attention should be given to the role and relationship between NGOs and governments on human rights protection for indigenous peoples.

To this last point I would particularly urge the Australian government to directly assist (with finances and information) Aboriginal NGOs to prepare independent reports on the implementation of indigenous rights to any and all forums to which the governments reports.

FAIRA also made comment last year on the paucity of outcomes for Aboriginal peoples through the use of Royal Commissions by the Australian government to investigate the injustices against the Aboriginal peoples.

We declared the Royal Commission into Aboriginal Deaths in Custody to be a failure because it has not led to any substantial improvements for the Aboriginal peoples.

History shows that the Australian nation, and the preceding colonies of the British Crown, have always failed to achieve any positive outcomes from Royal Commissions into Aboriginal issues.

The Aboriginal peoples should no longer expect or hope that Royal Commissions in Australia will deliver satisfaction, positive changes or justice.

FAIRA said, last year, that it could not see any benefit to be derived by the Inquiry into the Separation of Families conducted by the Human Rights and Equal Opportunity Commission.

We said that there were, and still are, serious injustices to be addressed but the inquiry itself can not provide justice or even solace to the Aboriginal peoples who participated in this inquiry. Our concerns have been justified.

We repeat our message of last year - the Australian government must establish and empower tribunals, staffed by the Aboriginal peoples. Such tribunals must not only inquire into matters but must also take the remedial action necessary to rectify unlawful or unjust deprivation, disadvantage and injustice against the Aboriginal peoples.

The options, we said, are to either be subservient and powerless under and extremely partisan government - a government intent on preventing the Aboriginal peoples from enjoying their rights - or to confront the Australian government to gain recognition and acknowledgement of our rights.

FAIRA strongly advocates immediate and positive gains in the Aboriginal struggle for self-determination. The Foundation does not advocate intemperate means for the Aboriginal peoples to achieve self-determination.

FAIRA said the international community must be prepared to give more scrutiny to the governments's treatment of the Aboriginals peoples.

If the Australian population, or at least a majority of the population, continues in hostility towards Aboriginal aspirations for self-determination, and the Australian government continues to exploit rather than address poor race relations, then international scrutiny of Australia's human rights treatment remains the most viable means to protect the indigenous rights of the Aboriginal peoples. FAIRA is convinced that resolution of the human rights issues and the indigenous rights issues can, and should, occur within Australia. We are well aware that this message has been constantly presented to the government this past year by all national indigenous authorities. Open dialogue, based upon truth, empathy and regard for human rights, is the first step towards reconciliation.

Again, Madam Chair, we draw attention to the failure of the Australian government to bring up to date its reports to the various human rights committees of the United Nations. It is imperative that the government submit immediately its overdue reports under treaties on the Elimination of All Forms of Racial Discrimination, on Civil and Political Rights and Social and Cultural Rights. These reports are up to six years overdue.

The relevant and interested human rights agencies of the United Nations should not tolerate delinquent, inadequate or unratified reporting by the government on human rights for Indigenous peoples. The agencies should establish and reinforce their own direct contact with the indigenous peoples, including through NGO reporting, and ensure that indigenous peoples are made aware of and are able to exercise their human rights as defined by international standards.

The FAIRA calls upon the government to organise and adopt adequate protocols for the introduction and passage of all legislation directly or exclusively affecting the rights of the Aboriginal peoples, ensuring that the protocols meet the standard specific in Article 20 of the Draft Declaration and the special measure clause of the International Convention on the Elimination of All Forms of Racial Discrimination.

The FAIRA denounces the Australian government's actions which have paralysed the organisations and infrastructure of the Aboriginal peoples through severe, unnecessary and unjustified cuts in funds.

The FAIRA advocates, in the most strong terms, the negotiation of a treaty settlement between the Australian government and the Aboriginal peoples which is based upon the following five principles:

- The right to decide whether we want to be part of the nation called Australia;
- The right, so long as our status remains as that of a dependent peoples within the Australian community, to fully participate in every level of society through positive and special measures;
- The right to negotiate an Interim Charter by which a timetable for regaining control over ourselves and our territory is progressively achieved;
- The right to the return in ownership of sufficient territories (including land and sea) to satisfy our needs as a peoples;
- The right to negotiate arrangements by which the territorial integrity of Aboriginal lands and Australian territory is mutually respected.

Thank you, Madam Chair. ❑

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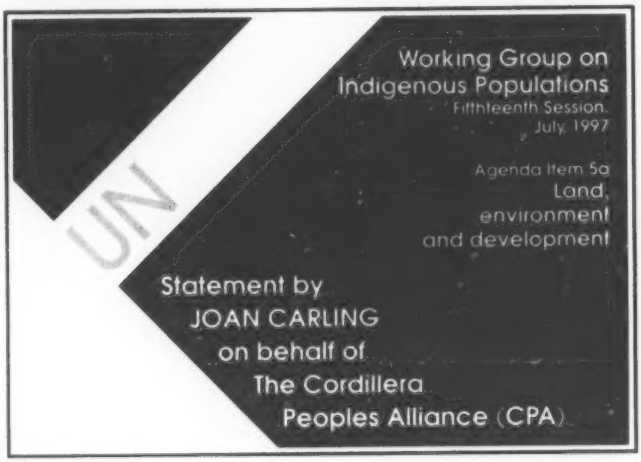


Madam Chairperson, members of the Working Group, sisters and brothers, I bring the collective greetings of the Cordillera Peoples.

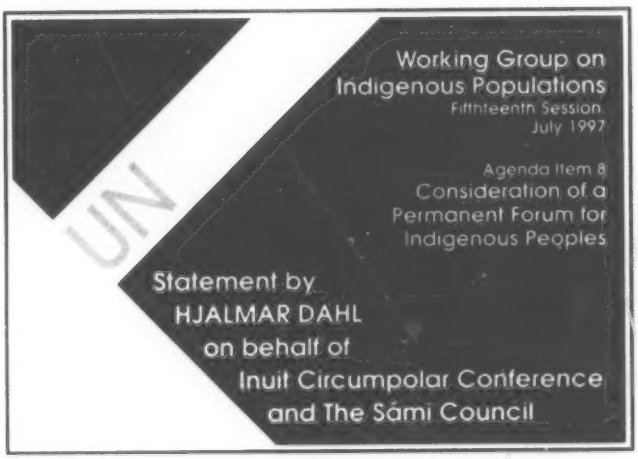
The situation of the Cordillera peoples, like the rest of indigenous peoples the world over, is getting worse everyday. With the unprecedented push for globalization, we are again being asked to sacrifice our remaining land, life and resources. Indeed, the decision of the WGIP to focus its deliberations this year on land issues is most appropriate given the prevailing situation of indigenous peoples. The issue of land rights has always been at the centre of indigenous peoples struggles.

Madam Chair, the Philippine government, upon passing the Philippine Mining Act of 1995 has fully opened our resources for imperialist plunder without regard to our land rights. To date, more than half of our total land area of 1.8 million hectares has already been applied for by multinational mining companies, not withstanding the claims of existing mining companies. If all this will be approved, more than 400 thousand of the Cordillera population of 1.2 million people will be driven away from their ancestral homes. Even lands declared as national reservations are now open for exploration by mining companies.

Moreover, twenty-two dam projects are planned to be built in the Cordillera. It is highly probable that by the end of the UN Decade for Indigenous Peoples, the entire Cordillera will have been erased from the map, due to the combined effects of the dams and the mines. One of the more notorious dams is the San Roque Multipurpose Dam which is being touted as being the biggest dam in Asia. Despite the massive opposition of the Ibaloy people, the government has initiated the groundbreaking rites for this monstrous project.

The development of three mega-geothermal plants on volcanic mountains are also under negotiation with multinational companies. Added threats to our lands and territories are the numerous tourism-related projects that the government has mapped out. Entire mountains are being bulldozed for road-building projects and for the cultivation of cash crops. All these projects, aside from dislocating entire communities also result in great ecological disasters.

Madam Chair, the total sell-out of our lands, resources and patrimony is a mock-



I am pleased to take the floor on the agenda item dedicated to the consideration of a Permanent Forum for Indigenous Peoples on behalf of the Inuit Circumpolar Conference and the Sámi Council.

As most of you know the Sámi and the Inuit are warmly dedicated to the promotion and protection of indigenous rights not only in our own homelands in the Arctic but also in other parts of the world, as we consider the promotion and safeguarding of our rights as indigenous as a cause and a plight in which we must all work in a spirit of solidarity.

As such the Sámi and the Inuit have been some of the strongest proponents of promoting and developing the idea of establishing a system.

First of all, we would like to extend our gratitude to the government of Chile for hosting the second workshop on the permanent forum in Santiago and also for the excellent chairmanship it provided the meeting.

The workshop would not have been a success without the willingness of the Chilean government and other participating governments to take upon the responsibility to act as true leaders in a spirit of partnership with the indigenous representatives present at the workshop.

Secondly, we would like to commend the statement of Mr. Kuupik Kleist on behalf of the Nordic Countries and the Inuit and Sámi Forum yesterday.

We fully support and endorse the views and interpretation made in the Nordic

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ery of the government's declaration to respect the rights of indigenous peoples. The reported efforts of the government to issue Certificates of ancestral lands or Domains Claims (CALC/CADC), have only resulted in tribal and clan disputes, disunity and confusion. In fact, it has become a mechanism to privatise ancestral land for easier access and negotiations with investing multinational companies. Likewise, the declaration of certain lands as national reservations under the National Integrated Protected Area System (NIPAS) has denied us access and control over our resources. Our indigenous practice of resource-conservation and management was totally ignored as if our existence in these areas were a liability.

Another deceptive manoeuvre of the Philippine government is the establishments of the Cordillera Autonomous Region as defined in the Philippine Constitution. It is supposed that an autonomous structure would pave the way for the recognition of our land rights but, so far, the efforts of government has only spurred divisions and much confusion. Top government officials are already fighting over positions and budget allocations.

Furthermore, the draft law that is pending in Congress lacks substance in terms of recognizsing our right to self-determination and ancestral land rights. It is clearly an attempt to accommodate and consolidate traditional politicians and local ruling classes who will then make use of their positions to ram through the pals of the US-Ramos Regime while enriching themselves further.

Madam Daes, I will reiterate again: the full and effective recognition of indigenous land rights lies in the unconditional recognition and respect of our right to self-determination, and vice-versa. There can be no effective exercise of self-determination if our rights to our lands and territories are not fully recognised. No amount of lip service can convince us of the sincerity of government if this fundamental truth is not accepted by them.

Let it not be said that we, the indigenous peoples, have not been patient in this generations-long struggle for the recognition of our rights. We have employed all available legal channels to air our grievances and legitimate demands, we have even come at great expense to the UN, just to be heard. Yet the government has responded with deception and yes, terrorism. Many times, in the 14 years of this working group, we have brought reports of our brothers and sisters being killed, all because of the continued denial of the state of our rights. Madam Daes, such reports will only cease when and if, the government were to respect our rights to our ancestral lands. A positive step towards such would be the immediate adoption of the Universal Declaration on the Rights of Indigenous Peoples which this distinguished body has drafted.

In closing, Madam Daes, I would like to address my fellow indigenous delegates. As states continue their mad race to globalisation at the expense of our land and territories, let us persevere in our struggle to defend our lands, lives and ways of life. The ultimate victory lies not in the halls of the UN, but rather in our homelands where we will launch our most effective defences together with other oppressed peoples.

Salamat ken agbiag tayo amin! ⌟

Statement. And in particular that the Permanent Forum should be seen as part of the United Nations reform process. The Sámi Council and Inuit Circumpolar Conference see the establishment of a permanent forum for indigenous peoples as a efficient and effective realisation of the principles of the Charter of the United Nations.

As argued by the Sámi Council in the written statement presented to the workshop in Santiago de Chile we see no obstacles to having a Permanent Forum established within the framework of the ECOSOC.

We have come to a point where most governments are convinced of having a UN body that concerns itself with indigenous peoples issues. However, we also sense a reluctance on the part of some governments to inviting indigenous peoples into such a forum on an equal footing with and with the same voting powers as state governments.

For the Inuit and the Sámis it is absolutely crucial that a permanent forum will not just be a permanent forum on indigenous peoples but also a forum of indigenous peoples. Thus we support the Nordic concept that the forum should be composed of indigenous and government representatives in an equal number and on an equal footing.

We would like to recommend to the Working Group that it transmit its report on the debate we are having here today along with the report of the Santiago workshop with a strong recommendation that the Commission of Human rights at its 54th Session make a priority consideration of the reports and that it start to consider concrete proposals of how to further the process towards establishing a permanent forum including the option of referring the matter of drafting concrete proposals to the Economic and Social Council.

In conclusion we would also suggest that the Working Group make a strong recommendation to the Human Rights Commission that indigenous participation and involvement in the process towards establishment of a permanent forum is a minimum requirement. The establishment of a Forum for Indigenous Peoples in which the indigenous peoples were not consulted and engaged as full partners would be meaningless to us - as it would also be a devaluation of the principles of the Charter of the United Nations that we all strive to fulfil. ⌟

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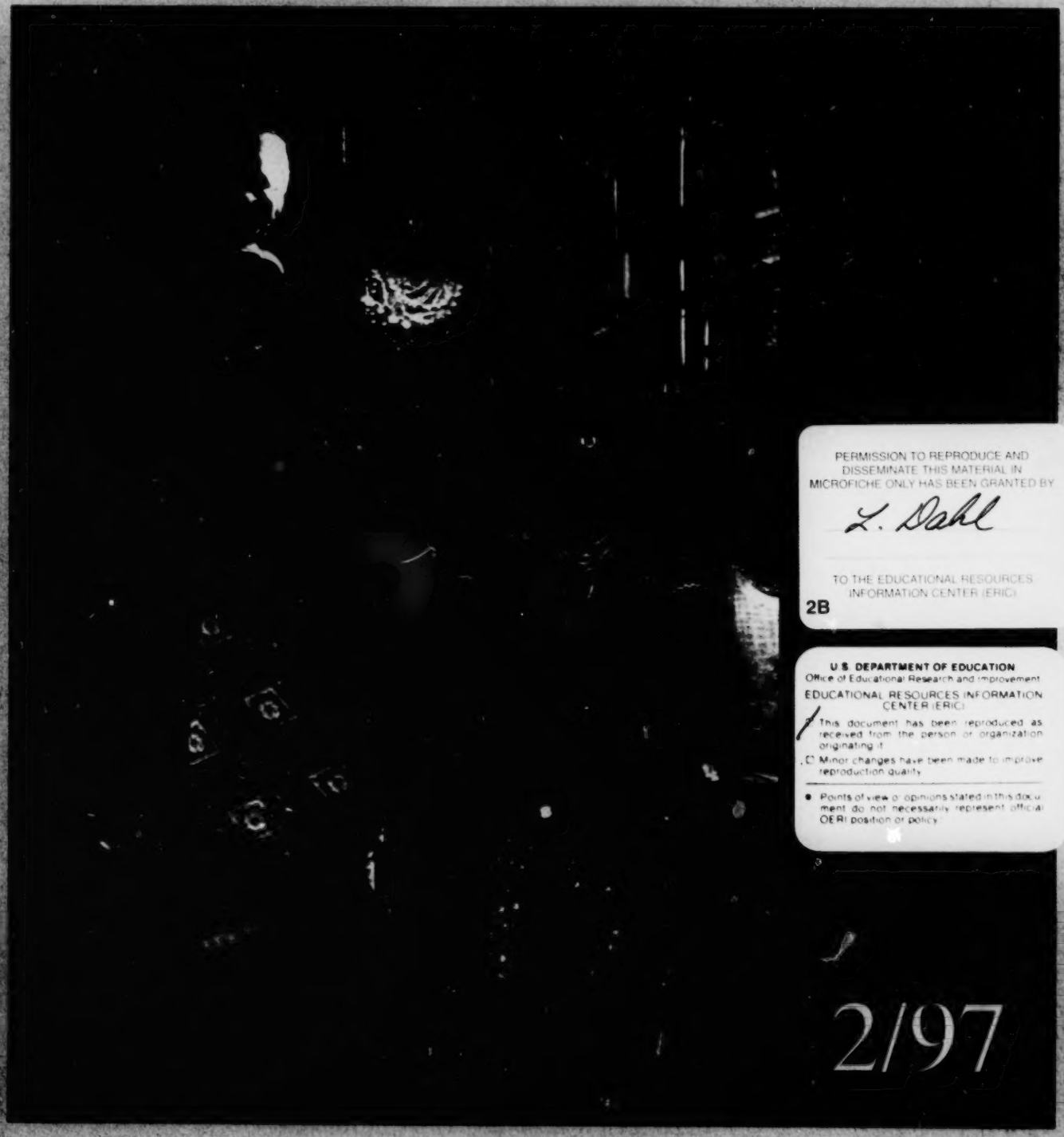

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Editorial

«Me encantaría abrir la carta de las Naciones Unidas», dijo una representante indígena durante el segundo seminario de las Naciones Unidas sobre el establecimiento de un foro permanente para los pueblos Indígenas. Fue celebrado en Santiago, Chile, del 30 de junio al 2 de julio bajo los auspicios del gobierno chileno. Como seguramente es de conocimiento de todos aquellos que han seguido el trabajo dentro de la ONU para proteger los derechos de los pueblos indígenas, existen dos temas de fundamental importancia. Uno es la adopción de la Declaración sobre los derechos de los pueblos indígenas, el otro es el establecimiento de un foro permanente. El primer seminario sobre estos temas fue celebrado en Copenhague en 1995, y la decisión de celebrar un segundo seminario fue tomada en una resolución adoptada por la Comisión de Derechos Humanos en su 53ª sesión, este año.

El segundo seminario discutió el ámbito, el mandato y la ubicación del foro permanente, y el trabajo realizado por los 25 representantes indígenas y los 25 representantes gubernamentales, más los expertos independientes y unas pocas ONG no-indígenas, y fue en varios aspectos, concreto y práctico, con el claro propósito de llegar a una idea lo más concreta posible acerca de la forma y el contenido de tal foro.

La declaración acerca de la apertura de la carta de las Naciones Unidas expresó un deseo de hacer que la Carta se ocupe explícitamente de pueblos que no son estados, sino entidades colectivas con el derecho a la autodeterminación. Todos aquellos miles de pueblos con diferentes culturas y lenguas, que eran pueblos antes de que este concepto adquiriera su actual significado jurídico internacional. Todos aquellos que no fueron tomados en consideración cuando la ONU fue creada en 1945. En otras palabras, aquellos pueblos que hoy se autodenominan indígenas.

La experta legal indígena que lo dijo, estaba muy consciente del carácter totalmente utópico de su deseo, así como todos los otros participantes. Las Naciones Unidas están en el medio de un proceso de reforma, pero esto no implica ciertamente una revisión de todo el fundamento expresado en la carta. A pesar del hecho de que muchos miembros de la ONU, bien dispuestos, puedan haber comprendido la falta de justicia de la actual estructura, la cual deja fuera a aquellos que estaban organizados en colectivos con una específica organización social, liderazgo, cultura y territorios bien definidos mucho antes de la creación de esas 185 entidades, llamadas estados, que ahora forman la comunidad mundial organizada en las Naciones Unidas.

La ONU está siendo reformada con el propósito de ahorrar dinero. Principalmente a iniciativa del miembro más poderoso de la «familia», los Estados Unidos. Los Estados Unidos deben millones de dólares a la ONU y se han negado a pagar la deuda hasta que se realice una reforma. El nuevo secretario general de la ONU, el Sr. Kofi Anan tiene muchas dificultades para cumplir con las demandas de la ONU, y no importa lo mal financiada que esté, la ONU está forzada a hacerlo, para recibir la debida contribución del país más rico del mundo.

Todo esto tiene implicaciones para la situación de los pueblos indígenas del mundo. Las objeciones a la formación de un foro permanente dentro de la ONU provienen de, entre otros, los Estados Unidos, con el principal argumento de que es demasiado oneroso y va contra los objetivos del proceso de reforma y racionalización. Sin embargo, en el seminario de Chile casi todos los otros participantes acordaron considerar la creación de un foro permanente como una parte constructiva del proceso de reforma, en vez de considerarla otra iniciativa insumidora de expensas. Pero el dinero

Portada: Panamá: niños kuna - Foto: Mac Chapin

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Inger Sjørslev

no fue el más importante de los temas discutidos. Las conversaciones se centraron en torno a la forma y la estructura del foro, el mandato, la representación de los pueblos indígenas, el vínculo con otras instituciones, la significación de tal organismo, y el futuro proceso de negociación de ésto dentro de la ONU.

Los resultados de la reunión pueden encontrarse en el documento oficial de la ONU(E/CN.4/Sub.2/AC.4/1997/CRP.1). Como agregados al informe, los miembros de la Asamblea General de la ONU, que tomarán posición sobre ésto en la próxima reunión, encontrarán una serie de trabajos importantes, entre ellos, la llamada declaración de Temuco. Se celebró una reunión indígena en Temuco, Chile, del 6 al 8 de mayo, organizada por el *Consejo de Todas las Tierras* y con la asistencia técnica de IWGIA. Fue una reunión muy exitosa, con la participación de muchos representantes indígenas, principalmente de América Central y del Sur. La declaración resultante puede verse al final de esta editorial, y las opiniones indígenas aquí reflejadas estaban muy referidas a la reunión oficial de la ONU, la cual reconoció los méritos de esta útil preparación para las conversaciones.

Este número de *Asuntos Indígenas* presenta además una serie de acontecimientos locales en el mundo indígena, esta vez con algún énfasis en América del Sur. Un caso muy instructivo de política indígena y nacional, y la relación, frecuentemente complicada, entre las dos, está representado por los resultados de las recientes elecciones en Bolivia y el interesante proceso que condujo a los resultados. Demuestra claramente las dificultades enfrentadas por una organización indígena que trata de formar una alianza con un partido político. Este caso nos recuerda que la participación en la política tiene que tomar en consideración las condiciones específicas de los pueblos indígenas de un país. En Bolivia, las reformas constitucionales de 1993 y el reconocimiento del carácter multicultural del país significa que Bolivia ha aceptado la participación política de su población indígena, y que el movimiento indígena de las tierras bajas, organizado en CIDOB, es fuerte. Sin embargo, la elección y los recientes procesos políticos muestran que todavía hay un largo camino a recorrer antes de que los derechos indígenas sean verdaderamente reconocidos por los partidos políticos no-indígenas. También existen una serie de problemas concretos. En Bolivia, el 81% de la población indígena carece de la documentación necesaria para participar en la votación. Además, el análisis de Ruth Llanos y Mamerto Pérez muestra que la pauta electoral de los pueblos indígenas está determinada por la tradición, el pragmatismo y las relaciones desiguales con los «patrones», los terratenientes que han tomado tradicionalmente las decisiones en nombre de los trabajadores indígenas.

Los *kuna* de Panamá están luchando por evitar el emplazamiento de una base naval dentro de su territorio, aunque reconocen la necesidad de establecer una base para proteger la seguridad nacional y combatir la presencia en el área de las guerrillas, las organizaciones paramilitares y los traficantes de drogas.

En Argentina, una modesta demanda de los pueblos indígenas es conservar el derecho -otorgado por ley, que prohíbe la discriminación, pero que no es respetado en realidad- a dar a sus hijos nombres indígenas.

El caso de Galdinho, un *pataxó* que fue a la capital brasileña para reivindicar los derechos territoriales de su pueblo y fue asesinado por un grupo de jóvenes de clase media de la forma más cruel, revela con trágica claridad la arrogancia general, la increíble estupidez y la falta de respeto por otros seres humanos, que es desgraciadamente parte de las actitudes de las clases medias y altas de este país. Es deprimente pensar que es necesario recordar a los padres y maestros que hay que enseñar las reglas básicas de respeto por la vida humana y la integridad de otras personas a los niños y los jóvenes. Y esto sucede en un país que alega ser democrático y estar fundado en los valores cristianos. Es chocante saber que jóvenes, que han ido a la escuela y tuvieron más oportunidades y bienestar material que la mayoría de los ciudadanos brasileños, necesitan que se les enseñe la inviolabilidad de otro ser humano, independientemente de la situación social y étnica. El hecho de que el grupo de jóvenes de clase media, culpables del horrible suceso que arrebató la vida de Galdinho Pataxó, dijo que pensaban que el ser viviente sobre quien eligieron practicar su sadismo, no era un indígena sino «un pobre», no hace más que agravar la tragedia y la naturaleza espantosa de su acto. Es la falta general de respeto por la vida humana y los derechos humanos, independientemente de la riqueza y la situación social, que también afectaa la población indígena de Brasil cuando lucha por sus derechos básicos, ya sean pataxós o *yanomamis*, quienes -también- enfrentan las consecuencias, que amenazan su vida, de la invasión de su tierra por parte de los buscadores de oro, después de que el gobierno detuvo la vigilancia del área. Se ha hecho mucho en Brasil para proteger los derechos territoriales de los pueblos indígenas, pero más en el papel que en la realidad, e incluso en el papel todavía hay un largo camino a recorrer en este país extremadamente rico que podría fácilmente disponer de los medios económicos para otorgar a la población indígena sus derechos básicos, y mejorar las vidas de millones de pobres. Pero sólo bajo la condición de un cambio radical de actitud de esa parte de la clase media y alta que crea seres capaces de cometer actos

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inhumanos como el realizado contra Galdinho por los fatalmente consentidos jóvenes de Brasilia.

Como dice el *Consejo Indígena de Roraima*, «reivindicamos pacíficamente el derecho a la vida, a la tierra, confiando siempre que la justicia del hombre blanco nos llegue un día a nosotros».

Un tema diferente, pero relacionado, es tocado por Robert Hitchcock en su artículo sobre pueblos indígenas, corporaciones internacionales y derechos humanos. En el seminario de la ONU de Santiago, una representante indígena de Asia puso énfasis en el papel nocivo de las grandes corporaciones transnacionales, y la tendencia general del mundo de hoy de adoptar la estructura de las corporaciones, incluso en áreas que parecerían extrañas a este tipo de estructuras - como la ONU. Ella estaría de acuerdo con aquellos líderes indígenas referidos por Robert Hitchcock que acusan a las corporaciones multinacionales de haberse convertido en «agentes del genocidio y de la destrucción cultural». El hecho de que mientras que la protección de los derechos humanos y el medio ambiente está en las manos de los estados e instituciones como la ONU, los intereses corporativos están concentrados en la extracción de riqueza y en la acumulación del excedente, generalmente a expensas de la población local de las áreas donde las corporaciones eligen trabajar - y muchas de esas áreas son indígenas, se está convirtiendo cada vez más en un problema para los estados nacionales.

Si, o mejor digamos cuando, la ONU comience seriamente a enfrentar el desafío de adaptarse a la situación del mundo de hoy, no sólo tendrá que enfrentar el problema planteado por los conflictos dentro de los estados y los enfrentamientos étnicos provocados por la desigualdad y los intereses políticos y económicos, como sucedió en la ex Yugoslavia y está sucediendo trágicamente todavía en partes de Africa. También tiene que enfrentar las cambiantes estructuras de poder del mundo, con más y más concentración de poder fuera de los estados y fuera del control de los mismos.

Puede haber quienes que aleguen que el capitalismo es el principal culpable de esta situación, aunque no ha estado de moda decirlo a partir de la caída de los estados socialistas no democráticos. Pero todavía muchos, si no la mayoría, de los pueblos indígenas están enfrentados a las muy concretas consecuencias de un sistema capitalista mundial con demasiadas pocas restricciones y demasiado poder económico concentrado en manos no democráticas, acompañado por la codicia consumista del mundo occidental, la cual a veces porta el disfraz del desarrollo.

La base idealista de la ONU está puesta en juicio hoy, 50 años después de su creación, en más de una forma. La de más severa importancia para los pueblos indígenas, es la que representa el creciente poder de las corporaciones multinacionales. La más obvia es la que proviene del hecho de que la ONU ha ignorado, desde la época de su creación, la presencia y negado los derechos de aquellos pueblos que se han organizado como *pueblos* antes de que este concepto adquiriera un estatus legal y se convirtiera en el fundamento de los instrumentos jurídicos internacionales que garantizan los derechos colectivos. Es decir, antes de la formación de los estados. En otras palabras, los más de 5.000 pueblos indígenas de todo el mundo.

En el seminario de Santiago, los mismos representantes indígenas que impulsaron la utópica búsqueda de la apertura de la carta de la ONU, siguieron subrayando la necesidad de quelos pueblos indígenas no cierren de antemano futuras posibilidades de expandir su influencia y derecho, considerando a la construcción que es actualmente el objetivo -llamada el foro permanente- como demasiado permanente. El organismo de la ONU para coordinar los temas de interés para los pueblos indígenas y garantizar su acceso al sistema internacional como miembros plenos, ha adquirido el nombre de trabajo de «foro permanente». Sin embargo, no debería ser considerado como más permanente que estar dispuesto -como la totalidad del sistema de la ONU- a adaptarse a los cambios del mundo. No sabemos como será el futuro.

Eso, no obstante, no nos excusa de mirar de frente y abiertamente a la realidad presente, y tratar de adaptar los mecanismos e instrumentos existentes para asegurar los derechos individuales y colectivos a la actual situación. Este desafío implica encontrar nuevas formas y medidas para limitar al turbo-capitalismo y a las fuerzas del mercado libre de crecimiento salvaje. Esta no es una tarea fácil. Es mucho más fácil crear un foro para asuntos referentes a los pueblos indígenas dentro del sistema de la ONU, al nivel más elevado posible, y con el mandato más amplio posible. Esto no debería ser un problema demasiado grande, y tal como lo demostró el segundo seminario, con una pocas tristes excepciones, los gobiernos, los participantes indígenas y los expertos independientes acordaron hacerlo. Una de las más importantes herramientas de trabajo fue la declaración de Temuco, la cual fue aceptada por todas las partes como un documento que expresaba la voluntad y los deseos de una gran cantidad de representantes indígenas. La mayoría de éstos eran de las Américas.

Un deseo de IWGIA, como observador y simpatizante de la causa indígena, es que los pueblos indígenas de Asia, Africa y el Pacífico tengan pronto la oportunidad de la misma manera, de expresar sus actitudes respecto a la estructura y contenido de un foro permanente, en formas más detalladas que las que dio lugar el seminario oficial de la ONU en Chile. ❑

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Declaración de la «I Conferencia Internacional Indigena sobre un Foro Permanente en las Naciones Unidas»

Temuco-Chile Wallmapuche, del 6 al 9 de mayo de 1997

1. Nosotros, los Pueblos Indígenas reunidos en Temuco reafirmamos el art. 1. 2. de los principios y objetivos de la Carta Magna de las Naciones Unidas. Para desarrollar una relación de amistad entre naciones, basada en el respeto del principio de igualdad de derechos y de autodeterminación de los Pueblos, y para tomar otras medidas apropiadas para reforzar la paz universal.
2. Tomando en cuenta las recomendaciones que conciernen a los Pueblos Indígenas en la Declaración de Viena y en el Programa de Acción adoptado por la Conferencia Mundial sobre Derechos Humanos (A/Conf.157/23), en relación al establecimiento de un Foro Permanente para los Pueblos Indígenas dentro de las Naciones Unidas.
3. Recordando también las recomendaciones de la Conferencia sobre Medio Ambiente y Desarrollo de las Naciones Unidas en el artículo 22, de la Declaración de Río sobre Medio Ambiente y los capítulos 11 y 26 de la Agenda 21, relativos a los Pueblos Indígenas.
4. Recordando además la resolución 50/157 de la Asamblea General en la cual el establecimiento de un Foro Permanente de las Naciones Unidas, se identifica como uno de los mayores objetivos de la Década Internacional de los Pueblos Indígenas del mundo, junto con la adopción de la Declaración Universal sobre los derechos de los Pueblos Indígenas.
5. Acogemos con beneplácito al estudio del Secretario General sobre los mecanismos, procedimientos y programas de las Naciones Unidas que afectan a los Pueblos Indígenas (A51/493).
6. Considerando las conclusiones del Secretario General donde se indica que no existen mecanismos de las Naciones Unidas que den a los Pueblos Indígenas la oportunidad de tomar parte de sus procesos de decisión, y que tampoco existe un intercambio regular de información entre gobiernos, pueblos indígenas y el sistema de las Naciones Unidas.

Nosotros los Pueblos Indígenas, declaramos:

1. Bajo el principio del diálogo entre gobiernos y pueblos, llamamos al rápido establecimiento del Foro Permanente al más alto nivel.
2. Los Pueblos Indígenas tenemos derecho a la plena y efectiva participación en el Foro Permanente, de manera paritaria con los gobiernos.
También es importante que las agencias de las Naciones Unidas, las ONGs y los expertos independientes tengan la oportunidad de tomar parte en las deliberaciones del Foro Permanente, cuando las partes lo requieran.
3. El mandato del Foro Permanente deberá tener la amplitud adecuada, abarcando todas las áreas que afecten a los Pueblos Indígenas del mundo, incluyendo los derechos culturales, civiles, políticos, sociales, económicos, salud, mujeres, niños, desarrollo, educación, medio ambiente, territorios, derechos humanos, resolución de conflictos y Coordinación de las actividades con las agencias de las Naciones Unidas que involucran a los Pueblos Indígenas. ❑

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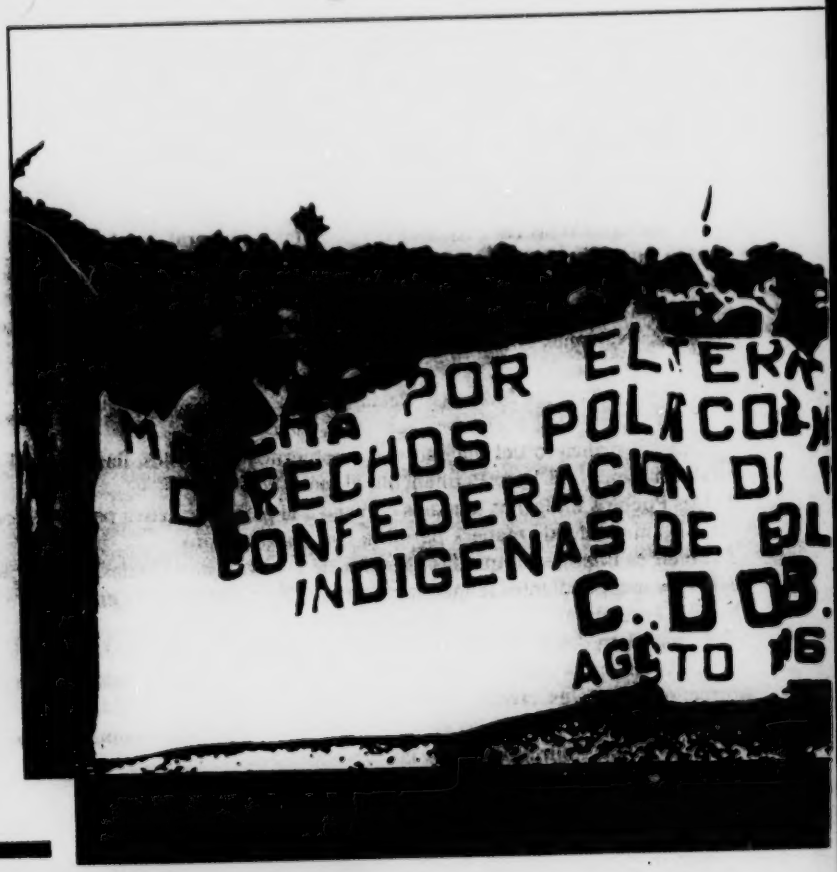
BOLIVIA

ación

1997 se constituirá en un año hito en la historia del movimiento indígena del oriente boliviano por la decisión inédita asumida por la Confederación de Pueblos Indígenas de Bolivia, CIDOB, de participar en las elecciones presidenciales y parlamentarias del 1ro de junio pasado, aliados a un partido político, el Movimiento Bolivia Libre, MBL, una de las fracciones del Movimiento de la Izquierda Revolucionaria, MIR, fundada en los inicios de la década de los '70.

Los resultados electorales finales no favorecieron ni a los candidatos de los pueblos indígenas ni a la coalición CIDOB/MBL. La escasa votación alcanzada fue una de las sorpresas de estas elecciones ya que la coalición apenas alcanzó el 3% de un total de 2.172.773 de votos válidos, ocupando el séptimo lugar entre las 10 fórmulas que se presentaron. Esta situación contrasta con los resultados obtenidos por los campesinos/indígenas *quichuas* que con un instrumento político propio fueron protagonistas de la otra sorpresa electoral puesto que con-



por Ruth Llanos
y Mamerto Pérez

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siguieron 4 diputaciones en el futuro parlamento y un votaje del 3.7 %.

El debate de esta primera experiencia electoral de los indígenas de las tierras bajas de Bolivia está en sus inicios. Hasta el momento la misma CIDOB no ha debatido ni analizado las razones y las consecuencias de los resultados obtenidos tanto en perspectiva política futura así como en su situación interna. Un Congreso convocado para el mes de julio intentará rescatar los criterios de las organizaciones afiliadas a la CIDOB.

Este artículo intenta aportar al debate sobre esta experiencia ya que sus resultados transcienden los límites bolivianos y se constituyen en una necesaria referencia para las organizaciones indígenas de otros países que también están en la búsqueda de una plena presencia tanto en la sociedad civil como en las instancias de poder estatal que definen políticas nacionales.

Marcha indígena campesina de 1996
Foto: Alejandro Parellada

En este trabajo se intenta establecer, en primer lugar, los principales antecedentes de la decisión política de la CIDOB; en segundo lugar, se resume una cronología del debate interno que discutió y definió esta decisión, aprovechando para ello el privilegio que tuvieron los autores de asistir a la mayor parte de los eventos de este proceso. Por último, y a la luz de los resultados electorales, se presenta algunos temas para la reflexión y el debate.

Antecedentes necesarios

Los pueblos indígenas de las tierras bajas de Bolivia conforman un mosaico muy diverso de pueblos y nacionalidades dispersados en un área que cubre casi dos terceras partes del territorio boliviano. Con orígenes, lenguas e historias distintas pero con problemáticas afines como el despojo sistemático de sus territorios y la cotidiana discriminación de la sociedad criolla.

En la actualidad, de acuerdo al Censo Indígena Rural de 1994, las tierras bajas cobijan a algo más de 150,000 personas que integran 33 pueblos indígenas, varios de ellos considerados de alta vulnerabilidad. Sin embargo, la población mayoritaria indígena está integrada por los quichuas y aymaras que suman algo más de tres millones que habitan en los distintos eco-sistemas de las tierras altas.

Bolivia es uno de los países con mayor población indígena en América Latina, esta situación ha sido recientemente reconocida por la Constitución Política del Estado que desde 1994 define al país como pluricultural y multiétnico.

La Marcha del ´90

La marcha por el Territorio y la Dignidad protagonizado por los pueblos indígenas de las tierras bajas, en 1990, constituye un primer antecedente en el proceso del creciente protagonismo de estos pueblos. En efecto, treinta días de caminata de centenares de indígenas lograron que, por primera vez, el gobierno y la sociedad civil reconozcan la realidad y los rostros de estos pueblos casi ignorados hasta ese entonces. Esta marcha permitió, entre otras cosas, que algunos de estos pueblos logren el reconocimiento de su derecho a un territorio. También sirvió para que surjan varios líderes que siguen siendo los protagonistas de la dirección del movimiento y fueron a su vez, los candidatos para las diputaciones pretendidas.

A partir de este hito, las organizaciones indígenas, encabezadas por la CIDOB, luchan para que el Estado reconozca, en sus políticas, sus propuestas de identidad, representatividad y participación, por tanto, ya es habitual que representantes indígenas estén en diversos eventos e instancias gubernamentales y no gubernamentales.

La Participación indígena en las elecciones municipales del ´ 95

De manera espontánea, con poco apoyo externo y por primera vez, algunas organizaciones indígenas, especialmente del departamento de Santa Cruz, presentaron candidatos propios en las elecciones municipales de diciembre de 1995. Con estrategias diversas y teniendo que prestarse las siglas de partidos políticos tradicionales lograron que algo más de una veintena de concejales indígenas hicieran parte de los gobiernos municipales en sus respectivas regiones.

Esta afrenta indígena originó una reacción de los sectores tradicionales no indígenas que detentan el poder en las tierras bajas y, por ello, a un año de gestión, el número de concejales y alcaldes indígenas disminũỹó, pues una mayoría de ellos fueron relegados de sus cargos en base a artimañas legales pero también debido a debilidades de gestión. Empero, este primer logro del derecho a ser elegidos en el espacio del poder local incubó, en algunos dirigentes y organizaciones, la posibilidad de enfrentar mayores desafíos en el escenario nacional.

En esta mismas elecciones los indígenas/campesinos del occidente del país lograron cerca de 400 concejales, aprovechando las condiciones de hegemonía y experiencia política-sindical en sus regiones.

La Marcha Indígena del ´96 y la Ley INRA

En 1996, la CIDOB y sus organizaciones protagonizaron otra marcha denominada por los Territorios, los Derechos Políticos y el Desarrollo; la misma se originó en las sucesivas postergaciones del tratamiento de una ley sobre tierras que en largos 15 meses había sido consensuada entre el gobierno, los indígenas del oriente y del occidente del país y los empresarios agropecuarios.

Agravada la situación por la modificación unilateral, por parte del gobierno, del proyecto de ley consensuado, campesinos, colonizadores e indígenas decidieron una movilización conjunta para presionar por un cambio de conducta en el gobierno y en el Congreso Nacional incluyendo la posibilidad de una marcha de los tres sectores.

La marcha protagonizada en un comienzo por indígenas del occidente y del oriente, por razones que aún deben de ser evaluadas, se dividió a los pocos días de su inicio. Este hecho motivó que la CIDOB, alejada de campesinos y colonizadores, negociara separadamente con el gobierno los términos de la nueva ley, logrando que se

reconozcan algunas de sus demandas fundamentales en materia de tierra y territorio.

Por su parte, los campesinos y colonizadores, renuentes a una negociación en las condiciones ofrecidas por el gobierno, llegaron en un número de más de 300.000 marchistas a la ciudad de La Paz, en una movilización masiva que no se había vuelto a repetir desde la década de los cincuenta, cuando la Revolución del 52 convocaba a miles de hombres y mujeres del agro. Otra sería la situación política y social del país si es que a este número se hubieran integrado los 2.000 marchistas indígenas de las organizaciones afiliadas a la CIDOB.

La ruptura entre los indígenas del oriente y el occidente fue hábilmente aprovechada por los grandes terratenientes del país y por el mismo gobierno para, finalmente, aprobar la ley INRA que introduce factores de tensionamiento y distanciamiento entre indígenas de ambas regiones.

Asimismo, la situación planteada durante y después de la marcha, permite que la prensa nacional y el mismo gobierno proyecten una imagen positiva de la CIDOB y en especial de su presidente, Marcial Fabriciano, destacando sus cualidades negociadoras, conciliadoras y de liderazgo. Esta imagen, por lo menos durante ese período, fue impulsada por el gobierno en desmedro del movimiento indígena aymara/quichua y sus líderes que fueron mostrados como intransigentes, irracionales y politizados.

Quizá esta imagen positiva de la CIDOB contribuyó a que sus dirigentes y asesores consideraran que tenían el respaldo suficiente de la opinión pública nacional no sólo para terciar en las elecciones sino sentar presencia en el occidente.

La decisión de la participación electoral

La decisión inicial de la participación de la CIDOB en las elecciones presidenciales del 1ro. de junio pasado surgió en una Asamblea Consultiva, realizada entre el 14 y 16 de Diciembre de 1996 en San Ignacio de Moxos. Si bien en la agenda de la asamblea figuraba el tema de la participación política, la mayor parte de las organizaciones esperaba que el tema central fuera la evaluación de los resultados de la Marcha y de las negociaciones de la ley INRA.

Entendiéndolo así, algunas organizaciones efectuaron críticas y observaciones sobre el incumplimiento de los plazos aprobados por el gobierno en relación a los acuerdos para la titulación de los territorios y las nuevas tierras comunitarias de origen. No dejó de ser una sorpresa que se convirtió en perplejidad cuando constataron que el tema central resultaba ser la discusión sobre la participación política.

El no tratamiento de la defensa del territorio en este evento y en la campaña electoral resultó, a la larga, contraproducente, ya que podría haber sido un elemento aglutinador de las diferentes posiciones políticas sustentadas por comunidades y pueblos tan distantes uno del otro en términos de idioma e identidades.

Durante el tratamiento de la defensa del tema político, a la sorpresa y perplejidad de los asembleístas se añadió la incomprensión de los nuevos términos introducidos por la nueva ley electoral como, por ejemplo, «circunscripción», «uninominales», «plurinominales», etc.

Las escasas preguntas e intervenciones que realizaron los asistentes demuestran que la decisión sobre la participación electoral no fue suficientemente comprendida ni analizada, desatacándose más bien una distancia, en cuanto al tratamiento del tema, entre la dirigencia más experimentada e influyente del movimiento y la generalidad de los delegados.

También fue decisiva la participación de asesores externos de la CIDOB que, a través de exposiciones largas y no muy claras para la mayoría de los asistentes, presentaron argumentos para convencer a los indígenas sobre las posibilidades y alternativas de obtener cargos y puestos en el poder ejecutivo, vicepresidencia, y diputados uninominales y plurinominales en el poder legislativo, en las circunscripciones donde la presencia indígena es mayoritaria.

Luego de haberse decidido, sin mayor debate, la participación política, el plenario aprobó la constitución de una Comisión Nacional de Participación Política como instancia de representación y negociación.

El momento de mayor duda y temor

Otra Asamblea Consultiva fue convocada del 4 al 6 de febrero de 1997, exclusivamente para definir la estrategia electoral, los partidos con los que se podía establecer una alianza y los dirigentes que debían candidatear. La expectativa nacional que había provocado la decisión de la CIDOB, más las sucesivas reuniones que tuvo la Comisión Nacional de Participación Política con todos los partidos políticos, tanto de derecha como de izquierda, en los días previos, determinó que la prensa nacional y algunos partidos políticos estuvieran expectantes de los resultados de esta segunda asamblea. Pero el evento fue perdiendo transcendencia debido a dos razones. Por una parte, resurge, desde algunos delegados, el tema de las observaciones a las negociaciones respecto de las demandas territoriales y el tema, esta vez, ocupa gran parte de los días programados para el total de la asamblea.

Por otra parte, una vez que se comienza el tratamiento del tema político y luego de que varios dirigentes indígenas y los asesores comenzaron a reflexionar a los participantes en sentido de que había que optar, en las alianzas, a un partido **«ganador»**, inesperadamente, comenzaron a surgir voces que no se habían escuchado en San Ignacio. Quizá, ante la plena comprensión del significado de la decisión política asumida, muchos delegados, por primera vez, expresaron sus duda, incertidumbre, miedo y, en algunos casos, pedidos de revisión de la decisión. Los argumentos centrales planteados por los asambleistas se referían a la desconfianza hacia los partidos políticos debido a sus prácticas prebendalistas, manipuladoras y segregacionistas.

También, expresaron que no podían asegurar que las bases a las que representaban votaran masivamente por los candidatos de la CIDOB debido a la debilidad del movimiento así como al «pluripartidismo» de las comunidades. Asimismo, consideraban que la participación en las actuales elecciones era apresurada y que se debía esperar un poco más para estar mejor preparados.

Como una salida a la situación presentada, los mismos delegados plantearon la necesidad de que el tema fuera trasladado a una consulta con las bases para obtener de ellas la necesaria comprensión y compromiso con la decisión asumida. Posiblemente este fue el momento de mayor reflexión y debate interno dentro del proceso de la participación política-electoral. Pero, ni la dirigencia central ni los asesores supieron valorar y aprovechar este momento para consultar y debatir con las bases, al contrario, argumentado la falta de recursos para otra asamblea y la presión de los plazos electorales, lograron la ratificación de la decisión asumida en San Ignacio.

Es también necesario señalar que esta asamblea muestra abiertamente el accionar de algunos partidos políticos que a través de algunos delegados intentan lograr una decisión que les favorezca, ya que hasta ese momento, la mayoría de los partidos no habían definido sus candidatos vice-presidenciales y congresales.

Al tercer día, en el marco de una asamblea diezmada por el abandono de varias

Foto: Alejandro Parellada

delegaciones y el cansancio, surgieron algunas voces que argumentaron la conveniencia de una alianza con el Movimiento Bolivia Libre, MBL, al considerar que este partido era el único que había aceptado incondicionalmente todos los planteamientos de la CIDOB. Esta situación permitió apreciar, abiertamente, las preferencias y quizá compromisos partidarios de algunos dirigentes y delegados, pues, simultáneamente a la propuesta de alianza con el MBL, surgieron otras voces que se inclinaban por otros partidos. Ante un conato de división abierta, el evento concluyo oficialmente sin el «humo blanco» que esperaban los medios de comunicación. A esas alturas, la mayoría de los partidos políticos grandes también ya habían expresado públicamente su desinterés por una alianza con la CIDOB.

Finalmente, la decisión definitiva de la alianza con el MBL se la adoptó, unos días después, en una reunión restringida de Comisión Nacional de Participación Política de la CIDOB.

Temas para reflexión

Como se señala al comienzo de este artículo, los resultados que obtuvo la CIDOB en esta experiencia electoral son magros en todo orden.

Qué es lo que ocurrió para que ni siquiera en zonas donde existe población mayoritariamente indígena los candidatos indígenas uninominales, originarios de esas mismas regiones, no hayan obtenido por lo menos un segundo o tercer lugar?

Por qué los indígenas quichuas, supuestamente protagonistas marginales del acontecer político-social boliviano en los últimos tiempos, lograron mucho más que la CIDOB, presentándose una sigla partidaria, la Izquierda Unida, desgastada, casi olvidada y hasta satanizada desde la vigencia del ajuste estructural?

Los indígenas bolivianos de las tierras bajas tienen pendiente dar respuesta a éstas y otras múltiples interrogantes en un congreso nacional planificado para el mes de julio. Pero, algunos dirigentes nacionales de la CIDOB, admitiendo su fracaso como una derrota dura, han expresado públicamente algunas razones para la misma

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como el prebendalismo, «hay que ser francos, nos han acostumbrado a actuar en base al uso del dinero y las prebendas en las elecciones», declaraba un dirigente, reconociendo que los resultados no hubiesen sido diferentes aún aliados con otros partidos.

Mientras tanto, algunos analistas bolivianos han adelantado algunas conjeturas y explicaciones para este fracaso de la CIDOB, desahuciando, prácticamente, el futuro político-electoral de estos pueblos y sus organizaciones.

Quienes escriben este artículo creen que más allá de la crítica o la condena, lo que corresponde es la obtención de lecciones que permitan avanzar. Bajo esta premisa y sin pretender ser exhaustivos, a continuación se presentan algunos elementos, en un contexto integral, que pueden ser pistas para la comprensión y el análisis de los resultados obtenidos por la CIDOB.

Todo parecer indicar que el error fundamental de quienes alentaron la participación electoral de la CIDOB desde fuera (asesores, políticos, intelectuales cercanos a la dirigencia de la CIDOB) y desde adentro (la dirigencia indígena histórica) fue no haber percibido y comprendido los factores concurrentes de una problemática tan compleja como es la participación política en un país como Bolivia y en un movimiento tan heterogéneo como el indígena. En efecto, explícita e implícitamente, estos actores exteriorizaban una lectura exitista y superficial, tanto de las condiciones internas del movimiento indígena de las tierras bajas como de las estructuras socio-políticas del país.

Las estructuras socio-políticas de Bolivia

Las estructuras socio-políticas del país, desde 1993, formalmente son distintas cuando se aprueban reformas constitucionales y sociales por el actual esquema gubernamental saliente. El reconocimiento de la pluriculturalidad y mutietnicidad del país, de las autoridades tradicionales de las comunidades indígenas, de su personería jurídica, su derecho a la educación inter-cultural bilingüe y el proceso de municipalización son elementos que configuran un nuevo escenario institucional-legal. Algunos analistas consideran que la elección de un primer Vicepresidente nacional de origen aymara, Victor Hugo Cárdenas, en 1993, es un antecedente central de este proceso.

En una lectura optimista del anterior proceso, el razonamiento aparentemente contundente de asesores e intelectuales cercanos al movimiento indígena, parece haber sido el siguiente: desde 1993, el país definitivamente es otro, no sólo por las reformas e instrumentos legales adoptados sino porque el país, en su conjunto, ha aceptado la participación indígena en el escenario del poder político a través de su representante en la vicepresidencia, empero se debe profundizar esta participación en un proceso lineal. Además, el movimiento indígena de las tierras bajas, no sólo que ya es un actor social emergente e indiscutible del escenario sociopolítico del país, sino que es homogéneo y fuerte. Por tanto, el copamiento, no sólo de la Vice-presidenciaa sino del Parlamento nacional, depende sólo de la decisión de este movimiento.

Consideramos que esta percepción no asume que, en un país tradicional y estructuralmente segregacionista y colonial hacia lo indígena, el paso de un Vicepresidente indígena por las esferas del poder político, reducto de las clases dominantes de origen no indígena, es absolutamente insuficiente para afectar y desbaratar esas estructuras. A este respecto, resulta ilustrativo mencionar el episodio vivido por uno de los autores de este artículo cuando consultó a un candidato no indígena de la alianza CIDOB/MBL acerca de sus pares indígenas en la región y él respondió: «...no conozco a esos indios». El término «indio» tiene aún un profundo significado peyorativo.

A estas alturas de la historia, cuando Victor Hugo Cárdenas está prácticamente de salida, no sería extraño que su presencia en la Vicepresidencia sea registrada más como la de un buen estadista antes que un representante de los indígenas bolivianos, destacándose su origen étnico más como un hecho anecdótico que como un reconocimiento al derecho de participación política de los pueblos indígenas. Consiguientemente, asumir mecánicamente que la elección de Victor Hugo Cárdenas originaba y/o respondía a un cambio de poder político nacional, es cuando menos exagerado.

Por lo anterior, parece que será necesario que los intelectuales, analistas, asesores y los que acompañamos a los pueblos indígenas tengamos que releer la realidad nacional y reubicar los acontecimientos a fin de poder explicar lo que sucedió con las intenciones electorales de la CIDOB y el futuro de su participación política.

Las condiciones internas del movimiento indígena. El mito de los 150.000 votos

Otro error grave fue el desconocimiento o la superficialidad con la que se consideraron las condiciones internas del movimiento indígena representado por la CIDOB. En este sentido, sólo se puede atribuir a factores de desconocimiento el hecho de que los asesores más influyentes hayan manejado con los partidos con los que negociaron y frente a los mismos indígenas, el mito de los 150.000 votos cautivos con los que supuestamente contaba la CIDOB. Para empezar, la totalidad de los 150.000 indígenas de las tierras bajas no equivalen a la misma cantidad de votos; en segundo lugar, están dispersos en un área aproximada de 700.000 km2, incomunicados unos pueblos con otros, tanto en términos físicos como idiomáticos, razón por la que en la práctica la CIDOB resulta ser más una instancia de representación que de integración de estos pueblos. En tercer lugar, la mayoría de la población indígena no ejerce sus derechos ciudadanos por carecer de documentos de identidad, el Censo indígena de 1994 estableció que un 81% de esta población era indocumentada.

En estas condiciones, pretender desarrollar una campaña electoral más o menos efectiva, hubiese resultado sencillamente costosa y poco rentable, electoralmente, para cualquier partido, más aún para la alianza CIDOB/MBL que fue una de las más modestas en cuanto a disponibilidad de recursos financieros.

El «pluripartidismo» indígena

Los pueblos indígenas no sólo son plurilingües y multiétnicos, sus integrantes son también «pluripartidarios» ya sea por tradición, por pragmatismo o por imposición de los patrones que suelen decidir el voto de sus peones. Desde hace más de tres décadas existe un voto fiel, de una parte de los indígenas, al partido nacionalista que decretó la reforma agraria, esta constatación fue planteada reiteradamente por los delegados que asistieron a las asambleas. Además, la corta trayectoria organizativa y sus carencias materiales los inducen a aceptar el prebendalismo de los partidos quienes «compran conciencia con regalitos y agasajos», tal como lo señala un dirigente de la CIDOB.

Ruth Llanos y Mamerto Pérez se desempeñan en la organización holandesa SNV en Santa Cruz, Bolivia. ❑

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PANAMA

Negocian una base naval en territorio kuna

por Atencio López

Antecedentes e historia de Puerto Escocés

El establecimiento de una base naval militar en la Comarca de Kuna Yala, con el propósito de combatir el narcotráfico internacional ha provocado un debate muy polémico en la opinión publica *kuna* y panameña a mediados de 1996 y a comienzos de 1997. El área en discusión es Puerto Escocés, sitio histórico donde, entre 1697 y 1700, los escoceses intentaron establecer una base de operaciones para el comercio mundial. Su nombre se debe entonces a la fallida colonia escocesa que un grupo de aventureros de esa nacionalidad intentó crear en esa remota región de Panamá en el siglo XVII.

Se encuentra ubicada a 18 millas náuticas del pueblo llamado Puerto Obaldía (habitado por no indígenas de raza negra, pero dentro de la jurisdicción kuna), en la frontera con Colombia, en el sitio conocido como Kipin Murru. En ese mismo sitio los primeros colonizadores crearon la primera población española en Abia Yala (América en kuna) conocida como Acla o Diuar Aila, Diuarnak o Uagamait (esta última palabra significa «donde reposan cadáveres de los extraños») ya sean estos españoles, escoceses u otros. Por lo tanto estamos hablando de un sitio que es considerado por los kunas como un Patrimonio Histórico, de abundancia arqueológica y cultural, donde ocurrieron hechos heroicos de su historia en defensa de la cultura ante los invasores europeos.

Más recientemente, durante la Segunda Guerra Mundial se construyó en el lugar una base militar estadounidense para apoyar a las tropas aliadas en la protección de posiciones vulnerables en el Istmo de Panamá.

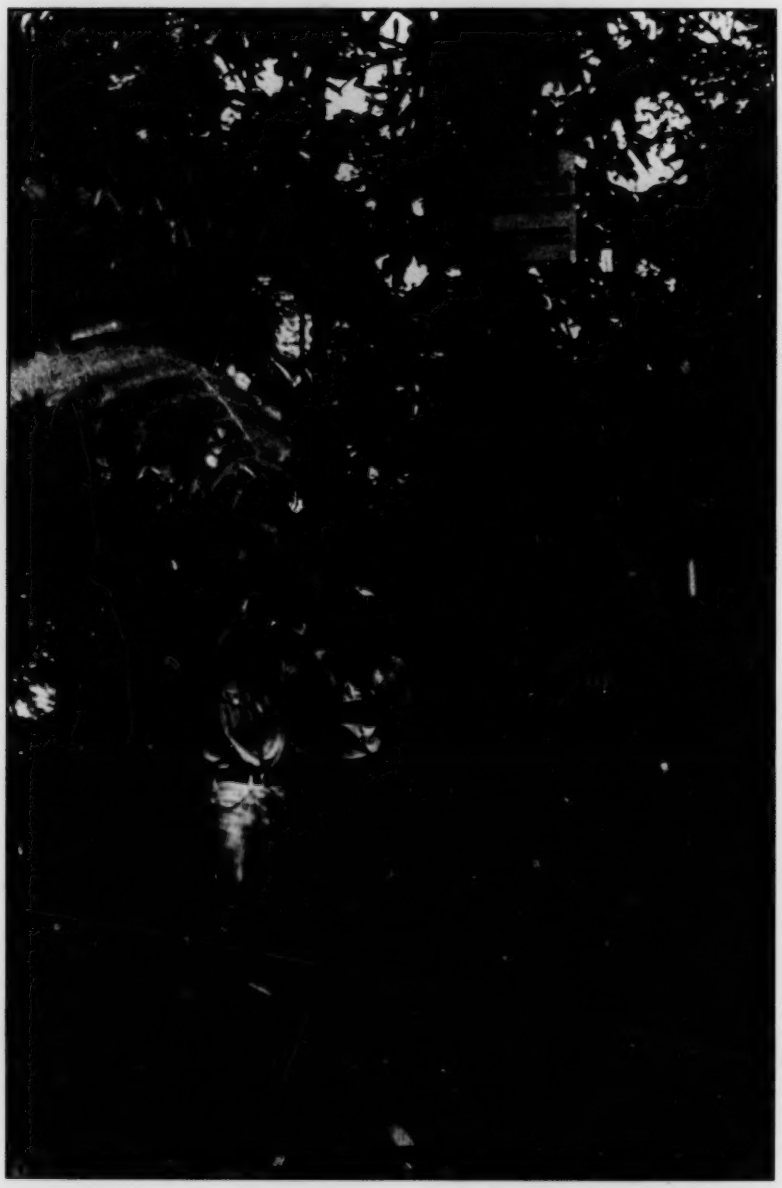
En las décadas de 1950 y 1960 hubo una compañía que bajo supuesto interés de desarrollar explotaciones fruteras (plátanos y bananas) en el río Membrillo, Darién, querían sacar el producto por Kuna Yala, utilizando esta misma zona, época en que ya se sabía de la existencia de algunos minerales por esos alrededores. Los gestores de esa empresa fueron holandeses y lo que realizaban era un juego de especulación bursátil en el exterior, por lo cual nunca desarrolló infraestructuras valiosas en las áreas de plantación ni en la del puerto.

Por los años setenta y ochenta, las facilidades militares abandonadas por las tropas estadounidenses después de la segunda guerra mundial fueron utilizadas por la Guardia Nacional panameña y las desaparecidas Fuerzas de Defensa como puesto de seguridad para expediciones holandesas, escocesas, inglesas y norteamericanas que realizaban investigaciones histórico-científicas sobre vestigios de poblaciones coloniales y embarcaciones hundidas.

Actualmente esa región pertenece a los kunas que en su mayoría viven en las comunidades de Sasardi Muladub y Sasardi Nuevo, y aquellos tienen sus fincas de coco, plátano y otras plantaciones. Además es un lugar rico en pescados y alberga cerca un campamento provisional que los kunas lo utilizan para pernoctar cuando van de pesca o a recoger los alimentos del monte por varios días, fuera de sus pueblos.

Visto desde el aire, aparece como un escenario paradisíaco de aguas cristalinas y de verde vegetación en el fondo. Un paraíso ideal para el turismo o el goce de la naturaleza. Sin embargo, hay otros planes para este lugar. Según el gobierno, se proyecta crear una base naval en ese antiguo puerto militar, para combatir actividades ilegales que se dan en esa desprotegida zona del país como lo son, el narcotráfico, el trasiego de armas, la inmigración ilegal y la incursión de grupos armados irregulares (cerca operan las fuerzas militares, paramilitares y la guerrilla colombiana, que después de los choques armados entre ellos pasan la frontera panameña y se refugian o se abastecen en ese sector).

En la propuesta, el Gobierno panameño construiría y pondría la fuerza de policía necesaria, mientras que el Gobierno de EEUU pondría el financiamiento (hasta el momento no hay informes exactos sobre el monto a invertir, se habla de 2 millones a 5 millones de dólares americanos). La parte Política o de «lobby» ante las autoridades y pueblos kunas le correspondería al gobierno istmeño, basándose en la política de seguridad nacional para convencer a aquellos a aceptar la base naval. Al principio, seducidos por las posibilidades de empleo, de flujo de dinero, y bajo el temor a la presencia de narcotraficantes colombianos, las comunidades kunas mostraron anuencia al proyecto.



Límite de la Comarca Kuna Yala
Foto: Mac Chapin

A comienzos y mediados de 1996, justo cuando empezaron las conversaciones del gobierno y el Congreso General Kuna (máxima autoridad indígena del lugar), se incrementaron también el acecho y la amenaza de las fuerzas guerrilleras o de narcotraficantes en el lugar, con robos inclusive a mano armada de algunos bienes de los kunas, como también de las amenazas de ejecución hacia los dirigentes por parte de los paramilitares. Muchas de esas acciones son ciertas, por ser un lugar de conflicto, pero algunas de esas amenazas no han sido confirmadas, por lo que ha creado también cierta incertidumbre entre los indígenas del lugar, si en verdad operan únicamente colombianos o también algún personal panameño y que por miedo a las fuerzas policías panameñas han preferido quedar callados.

Habiendo esa incertidumbre en el pleno del Congreso General Extraordinario que se celebró en la comunidad de Miria Ubigandup los días 15 y 16 de agosto; en donde a raíz de amenazas de paramilitares colombianos a la comunidad de Yansipdiuar, se presentó el caso y en el mismo se comunicó al Sr. Presidente de la República la decisión de aprobar la creación de la Base Naval en el sector fronterizo con la República de Colombia, además, acordamos que antes de su instalación e implementación la Comisión Mixta del Congreso General Kuna, negociara los términos de un acuerdo sobre la instalación de la base.

Hasta ese momento, prácticamente los kunas le habían ofrecido todo en «bandeja de oro» al Gobierno Nacional, y como parte de ello, el 24 de septiembre, se realizó la primera reunión entre el Ministro de Gobierno y Justicia, acompañado de funcionarios de la Embajada y el Comando Sur de los Estados Unidos, y la dirigencia de las comunidades de Muladup y Sasardi Nuevo. En dicha ocasión, el Ministro de Gobierno expuso las razones del por qué de la base y en qué iba consistir la misma. Mientras que la comisión de las comunidades expresaron su posición sobre el tema y señalaron tres condiciones para admitir la instalación de la base, siendo estas las siguientes: i) la indemnización de los propietarios de las parcelas ubicadas en Puerto Escocés, ii) la necesidad de un estudio de impacto ambiental y iii) la firma de acuerdo de implementación de la Base Naval.

Frente a estas consideraciones la respuesta del Ministerio fue que era imposible asumir la indemnización y que el estudio de impacto ambiental ya existía. Es más, en nota de prensa del 25 de septiembre la oficina de relaciones públicas del Ministerio de Gobierno y Justicia informó el inicio de las labores de construcción de la base sin referirse a los puntos presentados por la dirigencia de las comunidades afectadas. Al parecer las condiciones propuestas por los kunas molestaron a las autoridades nacionales y estos pusieron el grito al cielo hiriendo en muchas ocasiones al pueblo kuna con duras palabras. Era inconcebible que un pueblo indígena hablara de negociación e indemnización.

Ante esa negativa, apenas que el Ministro abordara su helicóptero, los kunas dueños de las tierras, de las comunidades de Sasardi Nuevo y de Muladub decidieron en el congreso del pueblo no négociar con el gobierno y tampoco ceder ante las peticiones de entregar sus tierras para la construcción de la Base Naval.

Teniendo ese panorama, los Caciques Generales (Jefes tradicionales de los kunas) y su equipo de trabajo, decidieron conver-

sar directamente con el Gobierno norteamericano, a través de su embajada en Panamá. En una primera reunión ocurrida en septiembre de 1996 acordaron con el Embajador, solicitar al gobierno nacional que se incluyera en una futura negociación la indemnización de los dueños de las tierras del lugar, hacer un convenio con el pueblo con la anuencia del Congreso General Kuna y la necesidad de desarrollar un estudio de impacto ambiental, que incluyera elementos socio-culturales y arqueológicos como paso previo al acuerdo, porque de otra manera se podría suspender de nuevo toda decisión mientras el Gobierno de Panamá no adelantara las medidas necesarias para ejecutar dichos estudios.

Los gringos dieron a conocer que no querían involucrarse en las discusiones que los kunas estaban manteniendo con su gobierno, por ser un problema muy interno de Panamá, pero que respetaban cualquiera decisión que los kunas adoptaran, en aras de no dañar las relaciones amistosas y bilaterales que estos venían manteniendo con las diferentes autoridades e instituciones de Estados Unidos en Panamá. Si persistía la negativa de los indígenas, el dinero de ellos iba para otro lugar así como la construcción de las misma base naval e inclusive la posibilidad de construirlo en otro país. El primer plazo que se le puso a los kunas fue que decidieran para finales de septiembre o en su defecto la posibilidad de una prórroga hasta finales de diciembre de 1996. En esa misma reunión las autoridades kunas dieron a conocer que no se les había informado a cabalidad de parte de los funcionarios del gobierno de los pormenores de la instalación de esa base. El 30 de octubre se hizo otra reunión en la embajada que se llamó el «Equipo de Trabajo Ambientalista», promovido por los estadounidenses, en donde el Embajador William Hughes presentó su punto de vista sobre la Base Naval de Puerto Escocés. Para la Embajada de los Estados Unidos la preocupación gira alrededor de la aceptación y estabilidad de la Base Naval y en consideración a esto el Embajador Hughes señaló la necesidad de cumplir las siguientes condiciones: i) las comunidades kuna ubicadas en el área de Puerto Escocés deben estar de acuerdo con el proyecto, ii) el Congreso General debe dar su aprobación formal, y iii) la necesidad de realizar un estudio de impacto ambiental y iv) el Servicio Marítimo Nacional debe establecer una sede permanente de apoyo en la provincia de Colón.

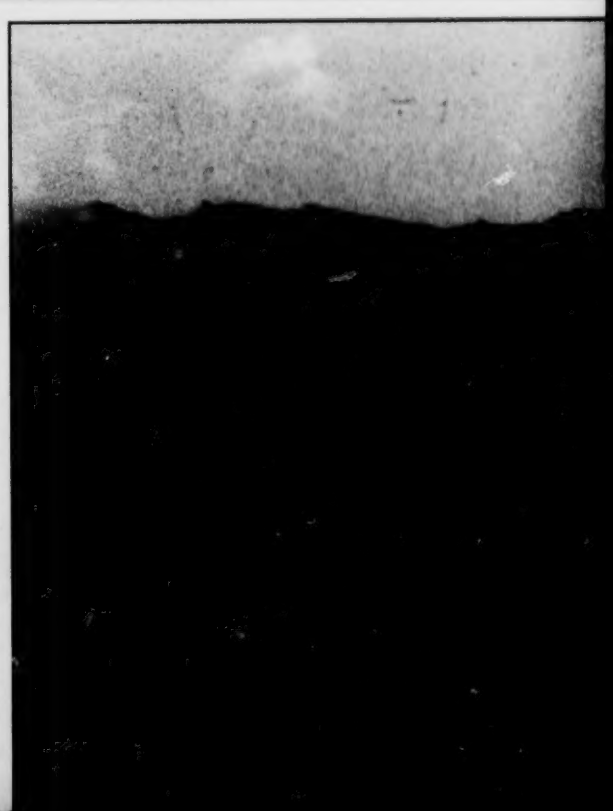
Por parte de los kunas, sus inquietudes fueron nuevamente presentadas a raíz de la no existencia de ningún acuerdo sobre la instalación de la Base Naval entre el Congreso General Kuna y el Gobierno Nacional; la Embajada estadounidense decide, entonces, esperar la decisión del Pleno del Congreso General que sesionaría del 15 al 17 de noviembre en la comunidad de Niadup.

Llegado el momento, el Pleno del Congreso General debate y decide sobre el asunto y al final emite la Resolución respectiva en donde se afirmó lo siguiente: *«Dar el visto bueno a la creación de la Base Naval en la Comarca Kuna Yala siempre y cuando se cumpla las siguientes condiciones: a) se firme un convenio entre el Estado y el pueblo Kuna, b) se instale en la comunidad de la Miel o Puerto Obaldía y, c) se haga previamente una profunda evaluación de impacto ambiental»*.

Teniendo la negativa de los kunas de ceder Puerto Escocés el gobierno redacta el 13 de diciembre un supuesto Acuerdo, escrito a mano, en papel simple, con tachones e incompleto, sin los sellos oficiales de los Congresos Locales de las dos comunidades. Además, de parte del Gobierno Nacional no hubo ninguna autoridad relevante para esa ocasión, después que el mismo Ministro Raúl Montenegro hubiera asistido personalmente a los dos últimos Congresos Generales en Kuna Yala. Y desde ese momento el Estado comienza con el uso de una política poco decorosa, hasta cierto punto de chantaje, hacia los representantes principales de las comunidades de Kuna Yala.

Ante esa acción gubernamental las fuerzas vivas o populares del pueblo kuna crean todo un movimiento para frenar las acciones de presión política, que los personeros del gobierno venían utilizando, entre ellos los recursos humanos del Partido Revolucionario Democrático (PRD) en el poder, en detrimento de la unidad indígena. El «acuerdo» de marras es considerado por los kunas como una burla, ya que no hubo una mano profesional en la confección de ese documento. Y además aquello era muy peligroso porque con ello se estaba solicitando dinero a un gobierno extranjero para la construcción de una base naval a costilla y vida de un pueblo indígena.

El gobierno panameño a través de la figura del Intendente (gobernador o representante máximo del gobierno en el área), prácticamente cercó a los Caciques de manera que desobedecieran las peticiones de los pueblos y defendieran las posiciones del gobierno. Se les puso a su disposición carros y avionetas oficiales para su movilización controlada e inclusive les hicieron firmar algunos «acuerdos» y «notas» en contra de sus voluntades, como lo han reconocido en algunas reuniones públicas en Kuna Yala. Todo eso creó una desestabilización política en la Comarca, mientras que por parte del gobierno arreciaron las amenazas hacia personas y organizaciones kunas que salieron en defensa de los intereses de los pueblos afectados como de sus mismas autoridades tradicionales. La política sucia del gobierno nacional entraba en acción, hasta el punto que oficiales de policía nacional que habían trabajado en la inteligencia de la época de la dictadura de Noriega (preso en Miami) entraban en acción para convencer a los kunas que, «todo el que estaba en contra de la base naval, o era narco-traficante o era cómplice de los mismos», por lo que le podía caer todo el peso de la ley, por «atentar contra la seguridad nacional».



Hubo acusaciones del gobierno hacia los asesores del CGK por «obstaculizar» las negociaciones para la realización de la base de Puerto Escocés. Sin embargo, éstos se defendieron, señalando que, «la independencia política de los asesores le disgustaba al gobierno». Hasta el punto que el Director Nacional de Política Indigenista, Hugo Giraud (además asesor del Ministerio de Gobierno y Justicia, Parlamentario Centroamericano por Panamá y una de la más prestigiosas figuras del Partido en el gobierno PRD), afirmó que, «hay un sector dentro de la comunidad kuna que reside en la capital y que no tiene ningún problema, que prefiere que no se instale una base naval en ningún lado de la comarca y que se mantenga la situación de inseguridad y tráfico de drogas en esa región». (La Prensa, enero 5, 1997).

Por otro lado los dirigentes de las comunidades afectadas como lo son los Sailas (jefes tradicionales de cada comunidad) como, Paulino González, Saila del Congreso General de la Cultura Kuna, Leonardo Valdés, Saila de Sasardi Mulatupu, y Pedro Green, de Sasardi Nuevo, firmaron un comunicado para denunciar tácticas intimidatorias del gobierno para que se apruebe el proyecto. Según los Sailas, funcionarios del gobierno presionaban a sus subalternos y aprovechaban la coyuntura actual de la comarca amenazando e intimidando a todos lo que se oponen a la base y así pescar en río revuelto para su politiquería en las próximas elecciones. Los sailas hicieron un llamado a todos los kunas para que respeten la decisión tomada en el congreso del 15 de noviembre de 1996, donde se aprobó que el proyecto debería construirse en Puerto Obaldía.

Igualmente le solicitaron al embajador de estados Unidos en Panamá, William Hughes, que le pidiera a su gobierno que no financira la instalación de la base naval en Puerto Escocés, porque eso va en contra de la voluntad de los legítimos dueños de esas tierras. Pedro Green, saila de Sasardi Nuevo, señaló que si el gobierno está interesado en resolverle los problemas de los Kunas que los ayude a mercadear el coco, que se lo tienen que vender a los colombianos. Mencionó también que el gobierno presta poca atención a la comercialización del aguacate y las molas, que son fuentes de ingresos para los indígenas.

Por su parte, en una nota difundida públicamente, los misioneros católicos de Kuna Yala advierten que en estos momentos, «la gran choza del Congreso Kuna está perdiendo solidez. El bejuco se está aflojando, que recuerden que las decisiones que se toman en el Congreso son de toda la comunidad y deben ser respetadas».

En tanto, la Asociación Napguana y la Coordinadora Comarcal de Mujeres Kunas en sendos comunicados manifestaron también su posiciones sobre el tema. El comunicado de Napguana recordó que en noviembre de 1995 el pueblo kuna tomó una decisión al respecto. Agrega que las actuales negociaciones ignoran la decisión de nuestra máxima autoridad, y mencionan al intendente como el responsable del divisionismo y la manipulación en la Comarca Kuna. Las mujeres kunas, por su parte, plantean que el gobierno intenta imponer el proyecto a base de engaños y promesas.

Vista del territorio Kuna - Foto: Mac Chapin

Después de mucha incertidumbre se hace un Congreso General Kuna Extraordinario en la comunidad de Achutupu, los días 7, 8 y 9 de febrero de 1997 para discutir el tema y tomar una decisión definitiva de parte de los pueblos de Kuna Yala. De antemano, la propuesta de Puerto Escocés es descartada y en su defecto el Congreso emitió la Resolución No.1-02-97, «Por medio de la cual se crea una Comisión de estudio de las alternativas de un Puesto Naval en la Comarca de Kuna Yala» y, se autoriza además la creación de una Comisión, «que estudie las distintas alternativas de lugares en donde sea factible y conveniente la construcción del Puesto Naval y que dicha Comisión se reúna con el gobierno nacional». Con ello se cierra temporalmente una discusión muy álgida en la que estuvo en peligro la autonomía Política, administrativa y territorial de la Comarca de Kuna Yala, una autonomía indígena de mucha antigüedad y destacada a nivel continental. Con esto los kunas también han demostrado una vez más su gran desempeño en la política, porque a pesar de todo, han hecho parar un proyecto de gran envergadura promovido por los gobiernos de Panamá y de los Estados Unidos de Norteamérica, que difícilmente podemos predecir los beneficios o problemas que pueda ocasionar en el futuro a los kunas.

La propuesta gubernamental considera como condiciones ventajosas lo siguiente:

Según fuentes del Ministerio de Gobierno y Justicia, esta es un área parcialmente deshabitada. Las aguas no son tan fuertes, lo que permite la presencia de naves fondeadas en puerto. Se mantiene a una prudente distancia de la frontera con Colombia, pero definidamente dentro del territorio de la República de Panamá.

Según el proyecto del Ministerio de Gobierno y Justicia, la infraestructura puede ser utilizada, sin tener que hacer demasiado costosas las obras principales, como lo son la pista de aterrizaje y el muelle. Por sus características geográficas, desde ese punto se puede controlar el acceso marítimo al archipiélago de San Blás.

La Bahía es un refugio natural, que brindará seguridad a las embarcaciones amarradas al muelle o fondeadas, inclusive en la estación seca cuando los vientos del norte hacen muy difíciles las operaciones en el área.

La existencia en las cercanías de una colina con una altura aproximada de 60 metros sobre el nivel del mar, puede facilitar las comunicaciones y las operaciones de vigilancia por medios electrónicos. En esta elevación se tiene proyectado construir una torre de comunicaciones para las antenas de radar y los radios.

Debido a que el área se encuentra a sólo 20 millas de la frontera, la distancia

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puede ser recorrida en menos de 30 minutos, utilizando los botes de patrullajes costeros del Servicio Marítimo Nacional (SMN).

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Anexos:

1. Nota del Congreso General Kuna enviada al Presidente de la República.

Miria, Ubigandub, Kuna Yala, 15 de agosto de 1996

S.E. Dr. Ernesto Pérez Balladares
Presidente Constitucional de Panamá

S.E. Sr. Presidente:

Por medio de la presente le informamos que el Congreso General Kuna Extraordinario celebrado los días 15 y 16 de agosto de los corrientes, en la comunidad de Miria Ubigandub, ha decidido aprobar la creación de la Base Naval en el sector fronterizo con la República de Colombia, además acordamos que antes de su instalación e implementación la Comisión Mixta del Congreso General Kuna, negociara los términos de un acuerdo sobre la instalación de esa base.

Sin más por el momento reciba nuestros acostumbrados saludos.

Atentamente,

(Firmado) por los Caciques Generales Carlos López, Julián González, Leónidas Kantule Valdés y, el Secretario General Salomón Guerrero.

2. Resolución del Congreso General Kuna, celebrada en la comunidad de Niadub, el 14 y de noviembre de 1996.

El Congreso General Kuna, en uso de sus facultades legales

Considerando:

1. Que el Congreso General Extraordinario efectuado en agosto último en la comunidad de Miria Ubigandub, emitió una nota aprobatoria de la instalación de una Base Naval en Kuna Yala.

2. Que el presente Congreso General en una amplia y profunda discusión al respecto acepta su creación para control del narcotráfico, la entrada de indocumentados, el tráfico de armas, la incursión de paramilitares extranjeros y otros.

Resuelve:

Dar el visto bueno a la creación de la Base Naval en la Comarca de Kuna Yala, siempre y cuando se cumplan las siguientes condiciones:

a. Se firme un Convenio entre el Estado y el Pueblo Kuna.

b. Se instale en la comunidad de la Miel o Puerto Obaldía y,

c. Se haga previamente una profunda evaluación de impacto ambiental.

Dada en la comunidad de Niadub, Comarca Kuna Yala, República de Panamá, a los catorce días de noviembre de mil novecientos noventa y seis.

(Firmado) por los Caciques Generales Carlos López, Julián González, Leónidas Kantule Valdés y, el Secretario General Salomón Guerrero.

3. Resolución del Congreso General Kuna No.1-02-97

Por medio de la cual se crea una Comisión de estudio de las alternativas de construcción de un Puesto Naval en la Comarca de Kuna Yala.

El Congreso General extraordinario, celebrado en la comunidad de Achudub, los días 7, 8 y 9 de febrero, en uso de sus facultades legales

Considerando:

Primero: Que en la comunidad de Niadub los días 15, 16 y 17 de noviembre de 1996, el congreso General Kuna Ordinario resolvió la instalación de un Puesto Naval en la Comarca de Kuna Yala, decidiéndose su construcción en la comunidad de Puerto Obaldía o La Miel.

Segundo: Que existe una propuesta del Gobierno Nacional sobre el sitio de cons-

trucción de dicho puesto, existiendo preocupación de parte de las comunidades en cuanto al sitio propuesto diferente a la resolución de Niadub.

Tercero: Que este magno organismo consciente de las distintas alternativas propuestas en el seno del Congreso además de lo resuelto por el Congreso celebrado en Niadub, considera conveniente el estudio de las distintas alternativas que luego se presentarán al seno del Congreso para su decisión final.

Resolvemos:

Primero: Crear una Comisión que estudie las distintas alternativas de lugares en donde sea factible y conveniente la construcción del Puesto Naval y que dicha comisión se reúna con el gobierno nacional.

Segundo: Dicha Comisión estará integrada por las siguientes personas: Alberto Vásquez, Miroslavia Dick, Ospino Pérez, Jesús Smith, Julio Benítez, Erasmo Navas y Marceliano Gómez.

Tercero: Que antes de la presentación del informe de la Comisión es necesario el consentimiento de las comunidades afectadas a través de una resolución de los Congresos Locales afectados.

Cuarto: Que una vez ágotado el diálogo la Comisión deberá presentar los resultados al próximo Congreso para su ratificación final.

Dada en la comunidad de Achudup, los días 7, 8 y 9 de febrero de 1997.
Comuníquese y cúmplase.

(Firmado) por los Caciques Generales Carlos López, Julián González, Leónidas Kantule Valdés y, el Secretario General Salomón Guerrero. ❑

Nota

El siguiente artículo lo escribí a comienzos del mes de abril de 1997, debido a que esa misma semana se ha agravado la situación de violencia en la frontera Colombia-Panamá, justo en el territorio de los kunas, y diariamente se han hecho ajusticiamientos o muertes entre los pobladores no indígenas, provocadas por los paramilitares y guerrilleros colombianos, lo cual ha traído una gran cantidad de gente pobre a tierras kunas en busca de seguridad y resguardo escapando de la violencia de ese país.

Sugerencia para la instalación de una base naval en la frontera

Por Atencio Lopez

Cuando los kunas recomendaron al gobierno nacional instalar la base naval en Puerto Obaldía, en la mera frontera donde día a día la violencia armada que se vive en el vecino país irrumpe nuestro territorio, ni estaban locos ni eran ingenuos. Simplemente hacían conocer su sabiduría que venían madurando desde tiempos inmemoriales desde las márgenes del Río Atrato hasta las costas de Colón (provincia panameña).

Sabían muy bien que no podían exponer la belleza, la historia y el encanto de Puerto Escocés ante las incursiones guerrilleras, paramilitares o de narcotraficantes. La seguridad nacional en tiempos de paz debe respetar los patrimonios históricos, la ecología, la convivencia pacífica de los pueblos indígenas. Bien sabemos que Panamá no está en guerra en esa región, y es por eso sin habernos salido del aturdimiento de una campaña bien montada para convencer a los kunas que cedieran Puerto Escocés, la historia colombiana, que se escribe con sangre de gente inocente, toca con sus páginas nuestras puertas, trayéndonos centenares de personas como refugiados, precisamente en el lugar que los kunas han recomendado poner toda una infraestructura militar y de ayuda humanitaria en la frontera colombiana-panameña, en Puerto Obaldía o La Miel.

Este es el momento también en que el gobierno estadounidense debe ayudar a su similar panameño para instalar una base naval específicamente en esa zona, como han venido sugiriendo. Bien lo pueden acompañar campamentos de algunas otras instituciones panameñas o de la misma ACNUR, para asistir a los desplazados. Se debe de desistir de una vez por todas de pensar que los kunas son «aliados» del narcotráfico al negar Puerto Escocés, nadie en la Comarca ha justificado la violencia, el narcotráfico y el dolor ajeno, simplemente que algunos personeros del gobierno se han encerrado en sus despachos y de un día para otro las aldabas de sus puertas se han oxidado y sus vistas opacadas únicamente hasta donde llegan sus alfombras traídas de sitios exóticos. Otro de los elementos negativos es que a veces cuando se crean comisiones bilaterales entre los dos países no se toma en cuenta la opinión de los afectados directos, en ese caso de los kunas.

El afán kuna de recomendar que la base naval sea situada en la frontera es porque se supone es donde está la puerta de entrada y, qué mejor lugar para poner el perro para cuidar la casa (sin ofender a nadie). Por otro lado el territorio que se disputa tanto en Colombia y Panamá es Dule o Kuna, por eso nos duele también cómo los que debían de preservar la naturaleza del lugar lo han convertido en otra «tierra ensangrentada» (de donde proviene la palabra ABYA YALA o continente ensangrentado).

Los kunas no sólo podemos demostrar nuestra solidaridad con los hermanos colombianos y panameños cediendo Puerto Escocés, sino ya hemos cedido al igual que Puerto Obaldía (Armali en kuna), tierras en Bonga y Pueblo Nuevo, y aquellos conviven con nosotros manteniendo la cédula 10, con ello estamos demostrando que los indígenas no somos racistas, porque de otra manera hace rato nos hubiéramos sumido en otra guerra contra aquellos que vienen a asentarse en nuestras tierras escapando del miedo y la inseguridad que se vive al otro lado de la frontera.

Hacemos estas aseveraciones porque bien sabemos que han de surgir de nuevo los agoreros de la «seguridad nacional», «el desarrollo de los pueblos indígenas con industria militar», de la «ociosidad indígena como sinónimo de tercer mundo» y otras barbaridades. Pero ante todo eso, las muecas bien trazadas en las estelas o en los monumentos aztecas, mayas o de los nuchus kunas se van acentuando, como burla o como la sonrisa silenciosa de la victoria de los hombres de barro o de maíz, que por milenios han podido salvaguardar la Madre Tierra. Y en aras del desarrollo del próximo milenio, los kunas cómodamente salvaguardaremos nuestro territorio, no sin antes recomendar al gobierno que proteja la frontera nacional Panamá-Colombia, construyendo la base naval en Puerto Obaldía y no en Puerto Escocés.

Abril 9, 1997

El autor es abogado kuna y Director del Consultorio Jurídico de los Pueblos Indígenas de Panamá. ❑

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ARGENTINA

por Morita Carrasco

"Las comunidades tienen sus costumbres. Esos son sus derechos"

El programa de participación de los pueblos indígenas

El 8 y 9 de junio de 1996 se realizó en la ciudad de Buenos Aires la primera reunión de pre-coordinación nacional del ***Programa Participación de los Pueblos Indígenas*** (PPI). El PPI es un programa de movilización indígena cuyo objetivo es que los pueblos indígenas, a través de su participación protagónica, aporten los criterios y pautas que debe cumplimentar el estado para la efectiva operativización de los principios y contenidos del artículo 75 inc. 17 de la Constitución Nacional que dice:

"Corresponde al Congreso de la Nación reconocer la preexistencia étnica y cultural de los pueblos indígenas argentinos. Garantizar el respeto a su identidad y el derecho a una educación bilingüe e intercultural; reconocer la personería jurídica de sus comunidades y la posesion y propiedad comunitarias de las tierras que tradicionalmente ocupan; y regular la entrega de otras aptas y suficientes para el desarrollo humano; ninguna de ellas será enajenable, transmisible ni susceptible de gravamenes o embargos. Asegurar su participación en la gestión referida a sus recursos naturales y a los demas intereses que los afecten. Las provincias pueden ejercer concurrentemente estas atribuciones".

Un objetivo derivado de aquél es crear espacios de apropiación de los derechos reconocidos a fin de lograr la expresión propia de los pueblos indígenas y que ésta sea reflejada en la adecuación del ordenamiento jurídico nacional.

Los Derechos Indígenas incorporados a la Constitución reformada en 1994 fueron directamente diligenciados por una presencia indígena continua en los debates de la Asamblea Constituyente.

Pese a que se trata de nuevos derechos, han sido incorporados al texto constitucional en la sección de atribuciones del Congreso de la Nación, debiéndose entonces dictar leyes que los hagan operativos. Aunque algunos juristas sostienen que ello no es necesario porque existen leyes indigenistas que garantizan su ejercicio, una mayoría indígena opina que el espíritu del 75 inc. 17 avanza mucho más que aquellas, por lo tanto hay que adaptar la legislación vigente a ese espíritu.Tal es el caso de la ley Nacional 23302 de "Promoción y Apoyo a las Comunidades Indígenas".

En 1995 ante la noticia de que el gobierno nacional intentaba reformarla, un grupo de representantes de comunidades y dirigentes de organizaciones se reunieron con legisladores nacionales para evitar que se tomen decisiones sin la debida consulta y participación que marca la ley.

Los asistentes exigieron a los legisladores que se respeten sus derechos constitucionales y pidieron tiempo para poder concretar una consulta amplia a la mayor cantidad posible de comunidades y organizaciones de base. Tiempo suficiente y una metodología propia de participación fueron las claves de sus planteos para evitar proyectos de reforma inconsultos. Este ha sido el origen del PPI.

En su organización participaron el Equipo Nacional de Pastoral Aborigen (ENDEPA) una organización católica de apoyo a la lucha indígena y la Asociación Indígena de la República Argentina (AIRA).

Para poder recuperar el pensamiento de diversas realidades indígenas se pensó en una metodología de trabajo que contempla cuatro instancias: local (comunidades de base); zonal(varias comunidades) ; regional (noroeste-noreste, centro oeste, centro este, sur) y nacional. En total son 49 zonas

que reunen a miembros de 17 pueblos diferentes: ***selknam, mapuche, tehuelche, rankulche, mocoví, komlek, wichí, simba, ava, tapyy mbyá, pilagá, iyojwaja, niwaklé, kolla, huarpe, diaguita-calchaquí*** distribuídos en comunidades rurales y asentamientos urbanos y periurbanos.

La reunión de junio del 96 convocó a representantes provinciales y zonales, equipos de apoyo y profesionales (abogados y antropólogos) para que colaboren en los aspectos técnicos. El objetivo de la reunión era consensuar contenidos para debatir en las reuniones locales; ajustar líneas metodológicas; elaborar un cronograma tentativo de actividades; conocer las disposiciones administrativas y facilidades económicas y formar los equipos de coordinación nacional y regionales. También se buscaba promover el intercambio de información y materiales de

trabajo ya producidos o por realizarse.

Luego del registro de todos los participantes se comenzó el día sábado con la presentación y exposición suscinta del pensamiento de cada uno. Lamentablemente esta tarea demandó mucho tiempo porque un gran número de asistentes no conocían bien el proyecto. Por esta razón se dieron muchas discusiones sobre el grado de representatividad de cada participante y también algunas tensiones por el poder que ello implícitamente podría significar. Varias veces se volvió a explicar el objetivo del PPI y la agenda del día. La asamblea decidió que sólo podrían votar aquellos que habían sido legítimamente elegidos en reuniones comunitarias, mientras que el resto podría opinar pero no tendría derecho a voto.

Para ordenar las discusiones y aportes de todos los participantes se adoptó la modalidad de trabajo por grupos. Los abogados y antropólogos formaron el grupo de asesores técnicos. Las consignas para el trabajo fueron que se respete el temario general y se hagan propuestas de otros temas considerados relevantes para la formación de una plataforma común de reivindicaciones que permita organizar la relación con los estados (nacional y provinciales) sobre nuevas bases. A los profesionales se les solicitó que aportaran su conocimiento para clarificar algunos términos técnicos y que ayudaran en la metodología. Los abogados solicitaron a los antropólogos propuestas para interpretar algunas formas organizativas y conceptos tales como "tierras que tradicionalmente ocupan". Que aportaran algunas técnicas propias de su disciplina, como por ejemplo el trabajo de campo, para ayudar en la recolección de la información hasta llegar al punto en que se logre que "la gente misma diga las cosas".

Los antropólogos solicitaron a los abogados que aportaran visiones críticas del Derecho sobre los conceptos que surgieran de la base indígena. Un aspecto en tal sentido es la distinción que necesariamente debe hacerse entre el "ánimo de dueño" anclado en la base de la legislación sobre propiedad privada, y otro u otros ánimos que pueden eventualmente subyacer en las formas de posesión y propiedad que reivindican hoy los pueblos indígenas.

Un resultado positivo de la reunión entre profesionales ha sido la formación de una red de integración y comunicación de novedades y demandas judiciales que individualmente se producen en los lugares donde cada uno vive. El objetivo es conformar un centro de documentación e información continua para todos los miembros de la red a fin de ir formando bases conceptuales sólidas para poder ofrecer a legisladores, jueces y funcionarios del gobierno que producen actos administrativos y legislativos que afectan a las poblaciones indígenas.

Las conclusiones de los grupos de trabajo más los aportes de la asamblea se volcaron en afiches para facilitar su debate en el plenario. Todos coincidieron en que el tema principal es la ***tierra***. Algunos avanzaron explicando que no se trata de una acción de "entrega" sino de una " acción de restitución". Ligados a este tema mayor están la gestión en lo que se refiere al uso y aprovechamiento de ***recursos naturales*** y lo referido a la ***participación*** directa en los asuntos que los afecten. Muchos estuvieron de acuerdo en que para que las leyes se cumplan deben buscar una forma organizativa que sea lo suficientemente amplia como para permitir la inclusión de las diferentes realidades de cada pueblo indígena. Se presentaron diversos casos de ***Personería Jurídica*** realizadas en base a modelos no indígenas de asociaciones civiles, tales como cooperativas y mutuales, explicándose que ello trae muchas dificultades a las comunidades pues no se comprende exactamente qué requisitos deben cumplir ante las autoridades. Algunos proponen que cada provincia o pueblo maneje su propia realidad, cada región -dicen ellos- tiene particularidades que deben estar reflejadas en la legislación.

Tierras, recursos naturales y personería jurídica están íntimamente ligados y son la base donde se asientan todos los demás derechos, sobre todo el derecho a seguir siendo indígenas, es decir a pertenecer a una cultura diferente. Pero para que las leyes sean "reales" se deben dar una forma organizativa jurídica y un estatus jurídico indígena distintos de las formas organizativas y estatus jurídico de los demás ciudadanos.

Algunos plantearon que existen dificultades de ***comunicación***, que mucha gente ni siquiera conoce que tienen derechos, que se enteran demasiado tarde de los planes del gobierno y que ello les impide muchas veces resistirlos. Se mencionó en especial el caso de grandes obras como rutas nacionales o internacionales, construcción de puentes, privatización de tierras ocupadas, programas para el desarrollo indígena etc. El grupo uno propuso la confección de un Boletín de Noticias que llegue a todas las comunidades de Argentina.

En el mismo sentido, otros grupos expresaron que tienen necesidades de ***capacitación*** en términos técnicos, legales y profesionales. Y quisieran debatir también los aspectos referidos a la educación bilingüe e intercultural y la salud.

La ***participación*** y cómo lograrla fueron objeto de debate en los grupos y en la Asamblea. Se considera que no existen en Argentina mecanismos de consulta adecuados a las realidades indígenas. Esto, se dijo,

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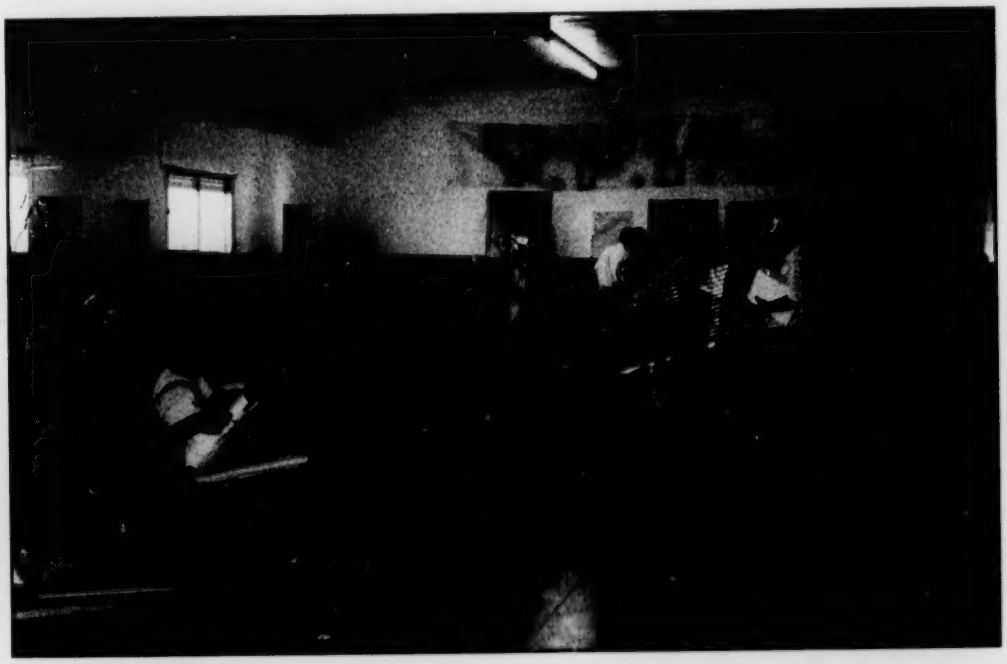

Foto: Morita Carrasco

va de la mano con la organización. Si lo que se busca con el PPI es una participación amplia de las bases, las opiniones de dirigentes y organizaciones no deberían tener más peso que las de aquéllas.

Hoy, después de un año las refexiones y, el debate continúa. Debido a la extensión del país y a sus variedades climáticas que impiden la movilización de muchas comunidades, en diferentes momentos del año, el desarrollo ha sido desigual, como también lo son las historias socio-políticas regionales.

En mayo de 1997 la situación es la siguiente: la región del Noreste Argentino ha concluído su tarea. Y las demas regionales (Noroeste, Centro y Sur), esperan tener el trabajo al día para el mes de julio. Esto significa que se espera realizar la Asamblea Nacional durante los primeros días del mes de agosto.

A los temas ya planteados se sumaron otros. En la regional del Noreste los pueblos wichí, qom, pitelaalek, mocoví y mbyá-guaraní que habitan las provincias de Chaco, Formosa, Misiones y Santa Fe, incorporaron ***religión***, ***cultura*** y ***asuntos institucionales***.

Aunque existen leyes que prohíben la discriminación y otras que aceptan los nombres indígenas la realidad muestra que ni una ni otra se respetan. Una demanda persistente en tal sentido es que que el Registro Nacional de las Personas permita a los padres indígenas poner a sus hijos nombres aborígenes sin necesidad de tener que reclamar su derecho ante la justicia.

Idioma, arte, cultura, estilos tradicionales de vida y aprovechamiento propio de los recursos naturales son reivindicaciones que van de la mano con aquellas de tierras y territorios. En la regional los asistentes manifestaron que no se debe exigir permiso o autorización para cazar o pescar, porque "esa es la manera como nosotros hacemos las cosas"y restringir éstas u otras prácticas socioculturales implica una restricción al ejercicio en libertad de la propia cultura.

Algunos participantes reclamaron su derecho a practicar libremente las religio-

nes tradicionales. Otros solicitaron para sus iglesias el reconocimiento respectivo como personas jurídicas.

Los Asuntos Institucionales fueron la base del debate en torno a las exigencias de la Dirección General Impositiva a miles de indígenas para que declaren cuál es su situación en relación con el ingreso económico. Si se tratare de trabajadores autónomos estos deberán cumplir con el aporte mínimo mensual de US$60, algo imposible para la mayoría indígena.

Es evidente que el Estado Nacional aún reconociendo los derechos indígenas constitucionales sigue negándoles un estatus jurídico especial. Cómo podrían los cazadores del Gran Chaco, -se dijo-, ser considerados trabajadores autónomos si ellos no comercializan sus productos y si así lo hicieran, cómo definir ésta como actividad permanente si es sólo un recurso estacional para alimenar a sus familias?

Sin duda, la igualdad de los ciudadanos ante la ley es un principio valioso para los Estados Nacionales pero ella no debe ser un argumento para la legitimación de políticas integracionistas oficiales, como la que se deriva de la obligatoriedad del pago de impuestos. El pronunciamiento indígena fue categórico: "no vamos a pagar estos impuestos".

Es evidente que, aún sin proponérselo, el PPI está promoviendo la elaboración de una plataforma política indígena común, y ello preocupa al Estado. Llamó mucho la atención de los participantes la actitud que durante el transcurso del programa ha adoptado el Ejecutivo Nacional a través de su Instituto Nacional de Asuntos Indígenas (INAI). Esta agencia gubernamental de atención a los temas vinculados con indígenas, ha puesto en marcha un programa de adjudicación de Personerías Jurídicas para comunidades indígenas siguiendo un modelo genérico para toda la variedad de situaciones. La justificación es que no se puede esperar a la finalización del programa para conocer la opinión de los indígenas sobre la personería jurídica de sus comunidades, porque existen situaciones urgentes que deben ser resueltas de inmediato. Esto ha sido visto por aquéllos como un intento más de fragmentación de las posibles solidaridades pantribales que parecerían irse formando en el PPI. Aunque todavía faltan leyes precisas, la pre-existencia de las comunidades y pueblos indígenas reconocida en el artículo 75 inc. 17 hace innecesario que se realicen trámites administrativos para obtener una personería jurídica del tipo de una asociación civil que ya está garantizada para cualquier ciudadano. Para los participantes del PPI la comunidad indígena es ya, una persona jurídica de derecho público, al igual que la Iglesia, porque su existencia precede a la formación del Estado y pretenden su reconocimiento.

Sin duda, los pueblos indígenas en Argentina están sedientos de justicia, pero reclaman el derecho de organizar y regular sus vidas de acuerdo a sus costumbres, resolviendo sus intereses y conflictos según normas propias y autoridades tradicionales.

Es evidente que los encuentros y prácticas políticas puestas en juego por el PPI van forjando por una parte una identidad aborigen que supera los prejuicios y diferencias internas que fragmentaban su conciencia como pueblo aborigen. Por la otra, en la medida que quedan expuestas las razones históricas de su sojuzgamiento surge con fuerza la voluntad política de reforzamiento de lo que tienen de distinto. Con la presencia de estos nuevos actores sociales se cuestiona la constitución de la nación como una unidad capaz de alojar la totalidad y proyectar un crecimiento y desarrollo único. Aunque tardío, el reconocimiento constitucional implica el reconocimiento de que la nación no es una unidad jurídico y política, sino que el estado se ha construido silenciando una parte importante de esa totalidad.

Por ahora, el PPI representa una esperanza para el encuentro y un reto para el futuro. ¿Como integrar la diversidad de demandas particulares en un frente común de reivindicaciones y metas compartidas? ¿Cómo elaborar una plataforma política común desde la cual hacer frente a una política estatal persistentemente tutelar y asistencialista? ¿Cómo com-patibilizar necesidades urgentes con objetivos políticos? ¿Cómo afrontar programas y ayudas de bancos y agencias de cooperación internacionales, sin promover una salida individualista del tipo "sálvese quien pueda"?

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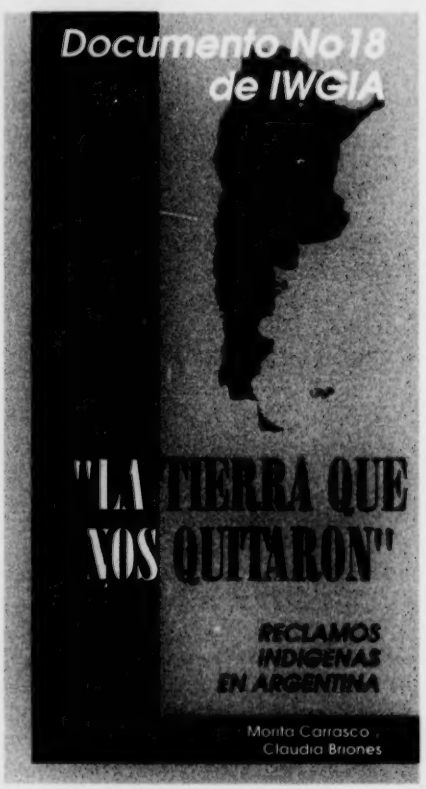

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BRASIL

Sobre el asesinato de Galdino Pataxó

por
Marcos Terena
COMITE INTERTRIBAL

Después de 497 años, la historia indígena en Brasil, poco a poco nos va demostrando, a nosotros los indígenas que tuvimos la oportunidad de abrir nuestros ojos, las innumerables contradicciones históricas, políticas, sociales y económicas, entre blancos e indios, caracterizando una de las más grandes guerras entre pueblos. Una guerra de siglos entre «los ciudadanos de las selvas» y los «ciudadanos de la selva de piedra». Nosotros, guerreros más jóvenes, guerreros de los años del final del siglo, no podemos utilizar solamente las armas de nuestros ancestros porque hemos aprendido a dominar nuevas armas, adquiridas junto a nuestros colonizadores, como la pluma y la hoja de papel. Todavía no hemos abandonado las enseñanzas de nuestros abuelos, al contrario, a cada verdad, a cada realidad del mundo que nos involucra, los conocimientos indígenas son más evidentes y tienen un sonido más fuerte en nuestro espíritu, como la lengua, las tradiciones culturales y espirituales. Son mecanismos de vida que nos enseñaron a tener una gran comprensión de las señales del tiempo, las manifestaciones de la naturaleza que vienen de las matas, de las aguas y del aire - una fuerza incomprensible para los hombres blancos, pero que nos ayudó a aprender a escuchar el corazón de la tierra, así como el corazón de nuestros niños, para enseñarles el sentido del bien vivir, hablando, en una tradición oral.

Cuando el primer blanco llegó a nuestras tierras aquí en las aguas del Atlántico, un portugués de nombre Pedro Cabral, había como 900 pueblos y casi 5 millones de indígenas, ahora, somos solamente 200 pueblos y 330 mil personas. Pero, Brasil tiene 150 millones de personas, como los negros y blancos de varios orígenes. Nuestros hermanos, los *pataxó*, hicieron el primer contacto con los portugueses el 22 de abril, eran 25 personas y los otros 30 mil, pero siguen luchando para obtener la demarcación oficial de las tierras que ocupan históricamente y para que el gobierno de Brasil cumpla con su obligación de defender los derechos constitucionales nacionales e internacionales como la Convención 169 de la OIT, derechos históricos que son parte de un compromiso social y moral debido al contacto con la nueva civilización que nos impuso, muerte, miseria y pobreza. En los últimos años, cada día 19 de abril, se conmemora el Día del Indio, entonces todos hacen algún homenaje en las escuelas, universidades y a veces incluso por parte de los políticos y del Gobierno Federal. En este año, 1997, no tuvimos nada que conmemorar. Tuvimos por parte del Gobierno de Brasil, del sociólogo Fernando Enrique Cardoso, formado en la Sorbona, Francia, una de las mas grandes contradicciones y retrocesos del indigenismo. Primero con la edición de una Ley que concede a todos los invasores de nuestras tierras, el derecho de justificación. Ahora como un emperador, quiere acabar con todas las formas de asistencia social a las primeras naciones, como salud, educación y desarrollo, en realidad como una tentativa clara de privatizar tales asistencias a todas las aldeas indígenas, muchas de las cuales no saben siquiera hablar otra lengua que no sea la suya propia.

Los indígenas que siempre fueron amables y sinceros, como hermanos de los extranjeros que llegaban, descubrieron muy tarde que detrás de la amistad había traición. El verdadero objetivo colonialista era dominar nuestros pueblos y conquistar nuestras tierras, una ambición que nosotros nunca hemos comprendido. Entonces, como pueblos honestos y guerreros, no creímos más en las palabras y promesas del hombre blanco y de su gobierno, por eso en el caso brasileño, hoy hay pueblos que conocen y buscan los caminos de Brasilia, capital de Brasil, porque saben que ahí residen el poder y las decisiones. Saben que si tienen que asegurar derechos no se debe hacerlo solamente en los escritos, hay que hacerlos cumplir. Cada pueblo actúa, negocia, conforme sus tradiciones. Hay pueblos capaces de pelear físicamente como los *xavantes* y los *krikati* y los *katapo*. Hay otros que tienen costumbres diferentes y reaccionan con suicidios como los *kaiwá*, del tronco *guaraní*, pero todos siempre buscan antes, una solución con palabras.

La Semana del Indio en Brasil nunca fue buena, la de este año fue una de las más tristes para nosotros. Por primera vez en la historia de la lucha indígena, Brasil vio señales jamás vistas: dos grandes jefes lloraban, hombres acostumbrados a pelear y sobrevivir en la selva fueron vistos con lágrimas en sus ojos, por desesperación ante la demostración de desprecio por parte del Gobierno del Brasil y ante su impotencia frente a la violencia.

La estrategia indígena de diálogo empezó cuando los xavantes hicieron una gran reunión de jefes en su pueblo, con más de 100 dirigentes, y decidieron no aceptar la agresión contra los derechos indígenas, como la privatización de la asistencia social y también exigir del Gobierno Federal la destitución del presidente de Funai, la Fundación Nacional del Indio (FUNAI) por ser una persona no grata, un abogado que antes trabajaba con misioneros católicos a través del CIMI, Consejo Indigenista Misionero. Otros pueblos se juntaron con los xavante. Los pueblos indígenas expresaron y escribieron sus demandas, pero nadie escuchó o prestó atención. El silencio de 500 años seguía en forma normal para las autoridades brasileñas. Entonces, en un día lunes, cuando en la Presidencia de Funai no había nadie, los guerreros xavante, *terena, guajajara* y kaiwá, ocuparon en paz el Gabinete, como forma de llamar la atención pública y no permitir más

la entrada del Presidente de Funai. Cuatro días pasaron, hasta que el Presidente de Brasil mandó decir por medio de su vocero, que «los indígenas mandaban en sus comunidades y él mandaba en Brasil», y por tanto, no atendería los pedidos indígenas. Varios parlamentarios, en solidaridad, estaban ayudando a intermediar las negociaciones.

Entonces fue hecho un acuerdo de tregua y de no agresión propuesto por el gobierno, pero éste ya tenía decidido romper el acuerdo. Durante la madrugada, a las 4hs de la mañana, 20 hombres de la policía, fuertemente armados como tropa de guerra, invadieron el Gabinete y arrestaron a 7 guerreros jóvenes que dormían, cuidando las cosas. Los indígenas creyeron en las promesas de las autoridades y fueron una vez más traicionados. Los jefes, dirigentes de sus pueblos, en las primeras luces de la mañana estaban indignados y bravíos con esta actitud que nunca ocurrió antes, ni siquiera durante la dictadura militar, y organizaron a sus guerreros para rescatar a sus jóvenes, con sus arcos y flechas, y marcharon en dirección del Cuartel General de la Policía Federal, que por primera vez, temiendo a los indígenas, se armó con ametralladoras. Los guerreros no tenían miedo, habían decidido incluso morir, pero retirarse solamente cuando sus jóvenes fueran liberados. Fue un momento de rara emoción que la prensa brasileña acompañó también con indignación. Los indígenas lloraron, pero no bajaron sus cabezas. Era la Semana del Indio.

Un día después del Día del Indio, el día 20 de abril, salió para caminar inocentemente, para conocer las calles de Brasilia, un consejero del pueblo *pataxó* que estaba en la ciudad para procurar la demarcación de sus tierras, pero se perdió y no sabía como regresar a una pequeña casa de abrigo para indígenas. Galdino Pataxó era su nombre. Cansado de caminar, decidió descansar en una estación de camiones hasta el amanecer. Pensó. Durmió. A las 5h00 se despertó. No creía lo que pasaba. Su cuerpo estaba en fuego, que lo quemaba muy rápido y profundamente. No tuvo tiempo para gritar o apagar las llamas, cuando entonces, un grupo de jóvenes blancos lo ayudaron. Era un ser humano en llamas, dijeron. Era increíble. Casi no pudieron hacer nada porque cuando quisieron ayudarlo, su piel se desprendía de su cuerpo. Galdino era una llama viva. El 95% de su cuerpo estaba quemado cuando llegó al hospital.

En la mañana los mismos guerreros xavante, terena, kaiwá y *fulni-o* corrieron al hospital para enterarse de lo que pasaba y para sorpresa de todos, allá adentro del hospital ya había una autoridad superior del Gobierno Brasileño. Ahora hablaba, el silencio se rompió en cuanto Galdino Pataxó agonizaba, protestando contra la injusticia. Estaba preocupado, sí, pero por la imagen del gobierno ante la opinión publica nacional e internacional. Todos los indígenas estaban emocionados al mirar el cuerpo de un hermano cubierto y con apenas un tubo para respirar, todos estaban indignados con el oportunismo de las autoridades. Otros guerreros al mismo tiempo corrieron a la policía que logró encontrar y arrestar a las personas que le pusieron fuego a Galdino. Una sorpresa: todos jóvenes, hijos de familias muy ricas, incluso de militares, altos funcionarios del gobierno y jueces. Jóvenes que quizás tuvieron todo para ser grandes hombres, personas buenas, que tenían coches, comida, escuelas de alto nivel, pero que hicieron esto, conforme sus palabras, por broma, afirmando que no pensaban que era un indio sino un pobre.

Fue la Semana del Indio más trágica y triste para nosotros. Fue la Semana del Indio en la cual se vio por primera vez, a dos grandes jefes llorar: el Jefe xavante, por sus jóvenes guerreros cobardemente encarcelados, por mandado del Gobierno Federal, como forma de humillar y desmoralizar al movimiento indígena y mostrar quien manda.

El Jefe pataxó, por el sufrimiento, dolor y muerte de uno de sus guerreros que caminaba por las calles de la capital, buscando la demarcación de sus tierras y la sobrevivencia de su pueblo, cuando entonces por ser diferente, pobre o indio, fue quemado vivo por broma de jóvenes que volvían para sus casas, como parte de un último acto de una noche de diversión, que se transformó en un verdadero acto de nazismo.

Nosotros los indígenas que acompañamos primero la prisión de los xavante, el silencio del Gobierno y el sufrimiento y dolor de Galdino Pataxó, hemos llorado. Lloramos no solamente por todo este cuadro, sino porque teníamos la conciencia de toda la historia de marginalidad en que vivimos y que vivieron nuestros ancestros por parte del proceso colonizador y «protector» del gobierno, y de cómo tratan a nuestros jefes, nuestros problemas y nuestros derechos.

Lloramos también, al mirar en las imágenes vivas de este episodio, el retrato de lo qué una sociedad, con la modernización, el desarrollo y la globalizacion, está haciendo con sus niños y sus jóvenes. Una sociedad que agoniza, que no sabe construir su futuro y que los indígenas tienen el deber de orientar, de ayudar desde el punto de vista socioecológico y sociofamiliar. Una prueba clara de que más que nunca, la filosofía indígena tiene fundamento y que no basta pagar con monedas la formación de un hijo, es necesario más que esto.

Hablamos mucho contra el gobierno del Brasil, no por problemas ideológicos, sino porque así es como somos tratados y no merecemos este tipo de consideración. No somos salvajes, no somos obstáculos del progreso y tampoco restos de una colonización errada. Somos ciudadanos naturales de todas estas tierras. Nosotros los indígenas, no solamente del Brasil, tenemos que mostrar con amor, coraje y fuerza, la sangre de nuestros ancestros, porque cada lugar de todo este continente, tiene un pedazo para nosotros. Los hombres blancos no pueden todavía ser considerados enemigos. Son personas que necesitan conocer nuestras verdades de bien vivir. Por eso exigimos que las autoridades cumplan sus deberes con nosotros. Es una obligación histórica y permanente hasta que tengamos nuestro territorio y nuestros derechos a una vida digna y una opción propia a la libre determinación como lo era antes de la colonización.

Cuando hablamos de bien vivir, hacemos un llamamiento a todo el mundo moderno: nosotros los pueblos indígenas hemos funcionado cinco siglos en base a enseñanzas verbales, de padre a hijo, teniendo amor a la tierra, a los animales del campo, haciendo de nuestros hijos, nuestra ocupación principal, pero siempre respetando a los viejos, su sabiduría y ciencia. Ocupación, éso que no se paga con moneda, donde nuestros hijos son preparados física, cultural y espiritualmente. Un equilibrio de vida que no encontramos fuera de nuestros pueblos. Por eso donde hay pueblo indígena, hay medio ambiente, ecosistema y economía autosustentable. Por eso también preguntamos al mundo desarrollista: ¿qué tipo de vida están preparando para sus hijos? ¿Qué tipo de agua, cielo y aire quieren donar para su futuro? Hacemos esto no porque queremos ser los mejores, sino para que cada uno mire dentro de su espíritu, dentro de su familia y dentro de su sociedad y descubra la respuesta.

La máquina moderna hace muchas cosas, pero como ocurrió con los cinco jóvenes de Brasilia, no puede suplir las manos y el corazón de madres y padres. Enseñar, convivir con los niños, es una tarea sagrada.

que no puede ser substituida por monedas o grandes cantidades de dinero.

La sociedad desarrollista debe hacer una meditación con la tierra y con el gran Creador. Hay en varios lugares del planeta, como en Europa, Africa y Centroamerica, pueblos hermanos que no tienen que comer. Hay pueblos hermanos que pelean contra enemigos. La tierra está llorando, como nosotros hemos llorado por nuestro hermano Galdino Pataxo.

Tal vez el gran creador tenga una misión para los indígenas cuando caminan por los pasillos de las Naciones Unidas, del Parlamento Europeo, del Banco Mundial, buscando conocer, estudiar e interferir en proyectos que son hechos en nombre del desarrollo y que tanto males nos han hecho. Nosotros no podemos aceptar mas que incluso en nombre de la paz y la ciencia, sigan gastando millones de dólares en pesquisas atómicas, de nuevas armas de guerra o hasta incluso el clonaje. Consideramos todo eso una locura, un camino a la destrucción.

En cuanto a nosotros, los pueblos indígenas, seguiremos caminando tras las huellas de nuestros antepasados, pero sabemos como «ciudadanos de la selva», que no podemos caminar solos, porque hay millones de personas no indígenas, «ciudadanos de la selva de piedra», que todavía recorren los mismos caminos en busqueda de dignidad y respeto. Quizás haya un sueño que concretar, seguir, pero ayudando a aquel que busca una vida mejor, de respeto mutuo, incluso para sacar de nuestros corazones el preconcepto, la discriminación que por tanto tiempo nos ha separado, por la simple razon de ser diferentes.

¿Crees en esta posibilidad? Nosotros creemos y por eso hacemos fuertes y claras nuestras voces, para que nunca mas casos como los acontecidos se repitan en Brasília y para que las cuestiones indígenas, en Brasil o en países donde hayan indígenas, sean tratadas por los gobiernos con prioridad. Brasil, Europa, America del Norte, Asia, todos deben despertar como nosotros, los pueblos indígenas estamos luchando por nuestros derechos, desde la demarcacion de nuestras tierras hasta nuevas instancias como un Foro Permanente para Pueblos Indígenas y una Declaracion de los Derechos Indígenas ante las Naciones Unidas. Caminos que hemos recorrido de generacion en generación, creyendo que nuestras palabras son esperanza para el derecho a la sobrevivencia de nuestro futuro, pero también de la naturaleza, de la bio-diversidad nativa, de la tecnologia, porque esta es la verdadera sobrevivencia, la sobrevivencia de la tierra y de la humanidad. ¿Pueden escuchar? ¡Esperemos que sí, porque eso es lo que estamos diciendo desde hace 500 años! ❑

Brasil
Repudió del Consejo Indígena de Roraima: "Respeto a los verdaderos dueños de la tierra

El asesinato del hermano Pataxó ha sido motivo de tragedia en todos los rincones del país. En nuestra marcha en defensa de la tierra que ya dura casi 500 años, los pueblos fueron extinguidos de forma cruel, sin que nunca los que comandaron los crímenes hayan sido castigados. La indiferencia de las autoridades ante tantas muertes se fundaban en la tesis del salvajismo. Éramos considerados y tratados por los colonizadores como salvajes, bravos y por eso peligrosos, amenazantes del proyecto de conquista colonial del Brasil.

Está escrito en los libros de historia que la orden del gobierno colonial e imperial era dar fin a los indígenas. Ya fuera por las armas o por la integración a la civilización, a la sociedad de los blancos. Esa orden nos persigue aún hoy, matando a nuestras familias, nuestros líderes y exterminando pueblos enteros a la vista de la ley y de las autoridades, que de modo irresponsable y demagógico continúan alimentando nuestra masacre.

Nuestra marcha, como la de los sin tierras, sólo tiene un sentido: el derecho a la vida. La tierra para nosotros no nos significa dinero, no significa intereses particulares, no significa especulación inmobiliaria, ella es nuestra propia historia, nuestros hijos, nuestro país, nuestras familias, nuestros abuelos, nuestros antepasados, nuestros mitos, nuestra fuerza y la certeza de que estamos vivos, vivos en nuestra cultura, en nuestra lengua. Somos los verdaderos dueños de la tierra, porque la sabemos respetar, porque sabemos respetar el verdadero valor de la vida. No matamos por diversión, no reivindicamos la confrontación.

Reivindicamos pacíficamente el derecho a la vida, a la tierra, confiando siempre que la justicia del blanco nos llegue un día a nosotros. No obstante, a pesar de nuestra creencia en la justicia, en la comprensión seria de las autoridades ante nuestros problemas, aumenta la cantidad de muertos, de mutilados físicos y culturales, de mendigos, víctimas de crueles acciones del gobierno federal que no hace fuego personalmente contra los indígenas, pero que permite que vándalos salvajes cacen mendigos por las calles, también víctimas de la discriminación y del abandono social, quiten la vida de una persona que luchaba para asegurar el derecho de muchos, de todos sus parientes que sufren los ataques de los hacendados y los errores del Presidente Fernando Henrique Cardoso que se niega a reconocer que somos los verdaderos dueños de la tierra.

Repudiamos todos y cualquier tipo de crímenes que causen tan violento acto, como la muerte del hermano Pataxó. No podemos continuar viviendo en un escenario de terror, siendo blanco de la injusticia federal que permite todo tipo de ataque y agresión al indígena. Para nosotros no alcanza la indignación del Presidente Fernando Henrique Cardoso en los medios de difusión, ante ese caso o cualquier otro que va a suceder, pidiendo el castigo de los culpables. Lo que queremos es la demarcación de la tierra y la garantía de nuestros derechos. Creemos que sólo la demarcación puede poner fin a las seculares masacres de nuestro pueblo y darnos el pleno derecho a decir: "somos los verdaderos dueños de la tierra". ❑

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Los arakmbut del Perú amazónico

Por Andrew Gray

Los *arakmbut* son un pueblo indígena que vive en la región de Madre de Dios en selva peruana suroriental. Desde sus primeros encuentros con misioneros en la década de 1950, han mostrado resistencia y determinación, afirmando su identidad frente a muchas dificultades. Durante los últimos quince años la supervivencia de los arakmbut ha sido amenazada por una "fiebre del oro" que ha atraído a cientos de colonos a sus territorios.

Esta trilogía investiga la forma cómo los arakmbut superan los peligros que los rodean: su mitología y fuerza cultural; su flexibilidad social; y su capacidad para incorporar conceptos y actividades no-indígenas a sus estrategias de defensa. Cada área está puntualizada por la constante presencia del mundo espiritual invisible que brinda una trama temática que conecta a los libros.

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PUEBLOS INDIGENAS, CORPORACIONES MULTINACIONALES Y DERECHOS HUMANOS

Por Robert K. Hitchcock

El impulso por el llamado libre comercio y los cambios de los sistemas globales políticos y económicos resultaron en la concentración de la riqueza y el poder en las manos de unos pocos cientos de corporaciones gigantes, muchas de ellas más grandes que la mayoría de las naciones soberanas. Estas corporaciones multinacionales (CMN), empresas comerciales internacionales (ECI), o corporaciones transnacionales (CTN) son, como nota Barnet y Cavanagh (1994:15), *«las primeras instituciones laicas administradas por hombres (y un puñado de mujeres) que piensan y planifican en una escala global»*. Las corporaciones multinacionales, siendo instituciones complejas, controlan grandes cantidades de capital, trabajo, recursos naturales, e información. El ochenta por ciento de las inversiones extranjeras es realizado por unas 500 corporaciones multinacionales, las cuales juntas, controlan el 70% del comercio mundial y el 30% del Producto Bruto Nacional del mundo. Un número considerable de estados nacionales, incluyendo algunos de los menos desarrollados, son dominados económicamente por las corporaciones multinacionales. En muchos de esos países, la toma de decisiones es fuertemente influenciada por las elites corporativas. Un problema que enfrentan los ciudadanos de los estados nacionales es que la protección de los derechos humanos y el medio ambiente está en manos de los estados y de las instituciones multilaterales como las Naciones Unidas, mientras que los intereses corporativos a veces se concentran en la ganancia y la extracción de recursos, generalmente a expensas de los habitantes locales y del hábitat.

Tal como destacan los pueblos indígenas y otros habitantes de aquellas áreas donde las corporaciones multinacionales operan, las compañías ponen generalmente sus propios intereses por encima de la población local y de los gobiernos. La percepción común de los pueblos indígenas sobre las corporaciones multinacionales es que controlan vastos recursos y los canales globales de comunicación, y por lo tanto tienen un tremendo efecto sobre incluso los más remotos hábitats y poblaciones humanas.

En octubre de 1995, estaba trabajando en temas que tratan los derechos a los recursos de las poblaciones indígenas de la región noroccidental del Desierto del Kalahari, en el sur de Africa, cuando hablé con un anciano *ju/'hoan* sobre la caza. Este hombre, que estaba sentado en la arena y afilando una flecha envenenada, levantó la vista hacia mi y dijo, «Bueno, ¿le parece que el basquetbolista norteamericano O.J.S. es culpable?». Hoy es común ver adultos y niños en las sabanas de Africa, en los bosques tropicales del Amazonas y del sureste de Asia, y en la tundra de Siberia, vistiendo camisetas con el Ratón Mickey, tomando Coca-Cola y mirando a la CNN y a la MTV. Cuando se les pregunta si les gusta o no lo que está sucediendo como resultado de la globalización del comercio y la comunicación, los indígenas contestan generalmente que aprecian definitivamente tener un mayor acceso a los bienes, la tecnología y la información, pero que están preocupados sobre los efectos negativos sociales, económicos, y ambientales de las actividades de las corporaciones multinacionales y del comercio global. Este fue el caso de los *kua san (basarwa, bosquimanos)* del área de Orapa en la región oriental del Kalahari, en Botswana, a quienes se les requirió abandonar sus territorios tradicionales cuando se estableció una mina de diamantes a finales de los años 60 por De Beers, una parte de Anglo American.

Las organizaciones de defensa de los pueblos indígenas y los grupos de base han estado celebrando foros sobre los impactos de las corporaciones transnacionales desde fines de los años 60. En 1981, el Consejo Mundial sobre Pueblos Indígenas (WCIP) identificó a las multinacionales como *«la más inmediata y seria amenaza a la sobrevivencia de las Naciones Indígenas del Cuarto Mundo»* (Burger 1981:16). Un

informe sobre corporaciones transnacionales realizado por la División de Administración y Corporaciones Transnacionales de las Naciones Unidas (UNTCMD) de 1993, destacó que las naciones indígenas eran más frecuentemente perjudicadas por compañías privadas que por los gobiernos (UNTCMD 1993). Algunos líderes indígenas han declarado en los foros internacionales sobre derechos indígenas que las corporaciones multinacionales se han convertido en «los agentes del genocidio y de la destrucción cultural».

Hoy, las corporaciones multinacionales están dedicadas a la extracción de recursos y actividades comerciales en algunas de las regiones más remotas del mundo, generalmente con poca o ninguna consideración sobre sus impactos en los grupos residentes y el medio ambiente. Algunos de ellos reciben importante apoyo de los gobiernos y de las instituciones financieras internacionales, aunque emplean tácticas opresoras y están dañando los hábitats donde operan.

De acuerdo a los representantes de los grupos indígenas que hablan en las reuniones internacionales sobre derechos humanos, aquellos pueblos definidos como indígenas han experimentado asesinatos en masa, ejecuciones arbitrarias, tortura, maltrato mental y físico, arrestos y detenciones sin juicio, reubicación involuntaria, y destrucción de su base de subsistencia a manos, no sólo del estado y de particulares, sino, cada vez más, de las corporaciones multinacionales. El ritmo de destrucción de los pueblos indígenas ha aumentado substancialmente en la última parte del siglo XX, a pesar del hecho de que han sido establecidas normas internacionales de derechos indígenas para tratar de contrarrestar la discriminación y el maltrato de estas poblaciones (Burger 1987; Hitchcock y Twedt 1995).

Varios eventos de importancia en los últimos años han conducido a un importante aumento del interés en temas que comprenden los impactos de las corporaciones multinacionales sobre los pueblos indígenas. Uno de los acontecimientos fue el impacto de compañías americanas y otras compañías petroleras sobre los *huaorani (waorani)* de la región de Oriente de Ecuador, descrito por Judith Kimerling en su libro *Amazon Crude* (1991). Los efectos de las compañías petroleras como Conoco, Texaco y Maxus sobre los hábitats y pueblos del Oriente abarcaron desde la contaminación masiva proveniente de los derrames de petróleo y el abandono de desechos tóxicos, hasta la desposesión y la intimidación de los pueblos locales (Rival 1993; Jochnick 1995; Kane 1995).

Un segundo acontecimiento fue el levantamiento Zapatista en Chiapas, México, el 1 de enero de 1994, un movimiento político vinculado por sus iniciadores a la aprobación del Tratado Norteamericano de Libre Comercio (NAFTA). Los líderes zapatistas citaron el fracaso del gobierno de México al encarar los problemas causados por los cambios en la tenencia de la tierra y la situación de empeoramiento socio-económico de los grupos indígenas, incluyendo a los *mayas lacandones*. El caso de Chiapas nos brinda un excelente ejemplo de las actitudes de los llamados librecambistas. Un miem-

bro del Grupo de Mercados Emergentes del Chase Manhattan Bank, Riordan Roette, hizo el siguiente comentario sobre el levantamiento zapatista:

> *Mientras que Chiapas, en nuestra opinión, no plantea una amenaza fundamental a la estabilidad política mexicana, es percibido así por muchos en la comunidad inversora. El gobierno necesita eliminar a los Zapatistas para demostrar su efectivo control del territorio nacional y de la política de seguridad (enero, 1995).*

En este caso, tenemos a un economista sugiriendo en realidad que México debería comprometerse en un genocidio para promover el llamado librecambio. Aunque el Dr. Roette fue finalmente expulsado del Grupo de Mercados Emergentes por «razones disciplinarias», elementos internos sugieren que su transgresión fue que no logró evitar que sus comentarios salieran a la luz en los medios de difusión, y no sus opiniones de cómo tratar la situación en México.

El genocidio no es un resultado accidental o no intencional de las acciones de las compañías privadas, agencias de desarrollo o de los gobiernos. Virtualmente en todos los casos, el genocidio es una serie de acciones calculadas y generalmente premeditadas con el objetivo de lograr ciertas metas tales como la eliminación de competidores o el silenciamiento de opositores (Charny 1984; Kuper 1985; Fein 1990).

Los representantes de compañías privadas han argumentado contra la noción de que son responsables de genocidio físico o cultural de los pueblos indígenas, alegando que no hubo **intención** de destruir pueblos indígenas **como tales** y que los grupos nunca fueron eliminados «como grupo étnico o cultural» (Kuper 1985:12-13). Las compañías privadas y los gobiernos generalmente declaran que las muertes de indígenas fueron «consecuencias no intencionales» de esfuerzos desarrollistas y que no existieron esfuerzos planificados de destruir pueblos en base a quiénes son. Los pueblos indígenas son tratados del modo que lo son porque, según ellos dicen, «no están utilizando la tierra productivamente».

Algunos analistas ven la destrucción de los grupos indígenas como un «producto colateral» necesario del desarrollo económico. Roger Smith (1987:23) argumenta que los indígenas del Perú, Paraguay y Brasil fueron *«destruidos por el frío cálculo de la ganancia, y, en algunos casos, por el placer sádico en vez de por el resultado de una crisis política o económica»*. El fenómeno es tan extendido, en realidad, que se ha acuñado un nuevo término para describirlo: **genocidios desarrollistas** (Hitchcock y Twedt 1995).

El perjuicio de los pueblos indígenas por parte de las corporaciones multinacionales ocurre en todos los continentes y en una variedad de contextos sociales, políticos, económicos y ambientales (ver Esquema). El establecimiento de los programas de explotación petrolera en Africa y la Amazonía, la tala de madera en los bosques tropicales del sureste de Asia y América Latina, y la implementación de proyectos mineros en Asia, Australia y América del Norte han contribuido a los procesos de destrucción física y cultural, desposesión, aculturación o empobrecimiento de pueblos indígenas (Davis 1977; Burger 1987:96-97, 106-109, 256-259; Wilmer 1993:128-130; Hyndman 1994:143-150; Young 1995:155-158). La implementación de proyectos hidroeléctricos a gran escala, muchos de ellos financiados por consorcios de bancos privados en vez del Banco Mundial u otras instituciones internacionales de financia-miento (IFIs), ha resultado en el desplazamiento de millones de personas, muchas de ellas indígenas (Banco Mundial 1994; McCully 1996). Demasiado frecuentemente, los habitantes locales han sido forzados a abandonar áreas de proyectos de desarrollo con una pequeña compensación, o ninguna, en forma de tierra alternativa o dinero por la pérdida de bienes. El rea-sentamiento involuntario y la pérdida del acceso a la tierra han tenido el efecto de un incremento de las tensiones sociales internas, algunas de las cuales se evidencian en tasas más elevadas de abusos de esposas y niños, divorcios, y suicidios en la población local.

El establecimiento de proyectos agrícolas comerciales ha tenido impactos similares. Esto puede ser contemplado, por ejemplo, en el caso del norte de Tanzania, donde los *barabaig* fueron afectados por la expansión de un proyecto triguero implementado por la Corporación Nacional de Agricultura y Alimentación (NAFCO) y una multinacional canadiense (el Programa Triguero Tanzania-Canadá, TWCP). Este proyecto hizo que los barabaig perdieran más de 100.000 acres de tierra de pasturas de primera calidad, y condujo a numerosas violaciones de derechos humanos, incluyendo arrestos, detención sin juicio, golpes, y tortura (Africa Watch 1990; Lane 1991; Tenga y Kakoti 1993).

Las acciones genocidas ocurren también a veces en situaciones en las cuales existe una destrucción ambiental deliberada. El ecocidio, la destrucción de ecosistemas por parte de estados, agencias o entidades corporativas, es un problema que enfrentan cantidades importantes de pueblos indígenas y otros pueblos en muchas partes del mundo. Esto se puede ver, por ejemplo, en el caso de Ogoniland en Nigeria, donde Shell Oil no ha logrado contener la contaminación causada por sus actividades de extracción de petróleo (Saro-Wiwa 1992; Brooks 1994; Kretzman 1995). Los activistas opuestos a la degradación de los ecosistemas han tenido que luchar contra la corporación transnacional y los esfuerzos estatales para silenciarlos, a veces violentamente(Human Rights Watch/Africa 1995; Sachs 1995). La ejecución por el estado nigeriano de Ken Saro-Wiwa, la cabeza del Movimiento por la Supervivencia del Pueblo Ogoni (MOSOP), el 10 de noviembre de 1995, destacó los peligros enfrentados por los activistas ambientalistas y lo lejos que sus opositores están dispuestos a llegar.

Hay cantidades de casos en los cuales se afirma que las corporaciones multinacionales han estado involucradas en la perpetración de violaciones masivas de derechos humanos contra pueblos indígenas. Esto se puede ver, por ejemplo, en el caso de la compañía minera Freeport Indonesia Inc. (FII), una subsidiaria de la Freeport McMoRan, con sede en Nueva Orleans, en Irian Jaya (Papúa Occidental). Se dice que Freeport Indonesia es culpable de complicidad con el gobierno de Indonesia en una serie de crímenes de derechos humanos, incluyendo asesinatos, desapariciones, incursiones y quema de aldeas, detenciones sin juicio, tortura, deposición deliberada de substancias tóxicas, e intimidación de opositores. Las justificaciones de los ejecutivos de la compañía por sus acciones se extienden desde la protección de sus bienes y la seguridad de los empleados hasta la obtención de beneficios para el gobierno de Indonesia (Hyndman 1994; Mann 1995; Survival International 1995; cf. McMenamin 1996).

Las multinacionales han llegado a veces extraordinariamente lejos para silenciar las críticas. Aquellos académicos que trataron de criticar las acciones de Freeport McMoRan, por ejemplo, fueron demandados legalmente y perdieron sus trabajos cuando se ejerció presión sobre las administraciones de las universidades. Tal situación ocurrió, por ejemplo, en la Universidad de Texas, en 1996 cuando un antropólogo fue forzado a resignar a causa de sus críticas a Freeport McMoRan. Las corporaciones

Nigeria: la Shell no ha logrado contener la contaminación causada por sus actividades de extracción de petróleo
Foto: Annie Hege Simonsen

multinacionales usan cada vez más demandas SLAPP («demandas legales estratégicas contra la participación pública») como medio para contrarrestar a sus opositores. En la Universidad de Colorado, un profesor asistente, Adrienne Anderson, que dictaba un curso popular llamado «Ética ambiental: raza, clase y política», fue forzada a dejar de impartir la clase porque la universidad decidió detener la financiación después de que las críticas llegaron en forma de una serie de cartas de compañías privadas (Winkel, *The Christian Science Monitor*, mayo 15, 1996, p. 6). Queda claro que las compañías están dispuestas a limitar la libertad académica y la libertad de expresión para proteger sus intereses.

Han habido unos cuantos casos en los cuales las compañías o las agencias de desarrollo han sido requeridas de cambiar sus tácticas o seguir las normas internacionales. Pero todavía no hay principios internacionalmente aceptados de cómo las compañías, las instituciones desarrollistas, o las organizaciones conservacionistas, deben operar. La consecuencia es que los grupos indígenas y sus simpatizantes se enfrentan a importantes problemas.

Algunos grupos indígenas están tomando el asunto en sus propias manos, bloqueando los caminos de las compañías en las áreas forestales e impidiendo la entrada de turistas al Club Meds. El bloqueo de caminos madereros, ha sido hecho por los *penan* de Borneo, en Malasia, por ejemplo, y los resultados han sido palizas, arrestos y detenciones (Dentan *et al* 1995). Otros están usando tácticas menos confrontativas, presentándose ante las Naciones Unidas y sub-comités del Congreso de los Estados Unidos y celebrando sesiones de enseñanza y capacitación sobre cómo escribir cartas a las juntas directivas de las compañías. Los huaorani de Ecuador apelaron directamente a la Comisión Inter-Americana de Derechos Humanos en 1994 y los *khwe (san, basarwa)* de Botswana, asistieron a las reuniones de la Comisión de Derechos Humanos en Ginebra, en marzo de 1996.

Las organizaciones indígenas están hoy impulsando el establecimiento de normas comerciales internacionales estrictas y la imposición de severas sanciones a aquellas compañías que realicen violaciones de derechos humanos y del medio ambiente. Argumentan también en favor de importantes cambios de las reglas operativas de la Organización Mundial del Comercio (WTO) y los diversos bancos multilaterales de desarrollo.

Se han hecho esfuerzos por parte de organizaciones intergubernamentales, asociaciones indígenas, organizaciones no-gubernamentales orientadas hacia el desarrollo y los derechos humanos, y particulares interesados, para elaborar líneas de acción para la implementación de proyectos de desarrollo que protejan tanto a las poblaciones locales como a sus ecosistemas. El problema con muchas de estas directivas, sin embargo, es que muy raramente son puestas en práctica, si es que lo son alguna vez. Aunque se han establecido detalladas normas internacionales sobre cómo encarar el reasentamiento de la gente afectada por proyectos de infraestructura a gran escala, existen pocos casos en los cuales to-

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dos, o la mayoría de los pasos, han sido seguidos. El resultado ha sido que casi toda la gente que ha sido reasentada en forma forzada, sumando decenas de millones de personas, han terminado en una situación mucho peor después de haber sido reasentadas.

Los grupos indígenas han comenzado a organizarse en un esfuerzo para oponerse a las prácticas genocidas y promover los derechos humanos. El éxito de estos esfuerzos dependerá de si las compañías privadas, las organizaciones inter-gubernamentales, los estados y las organizaciones no-gubernamentales están dispuestas a 1) formular normas estrictas, internacionalmente reconocidas, sobre derechos humanos y medio ambiente, 2) monitorear las actividades de desarrollo y conservación mientras que son implementadas, 3) implementar esas normas.

Lo que esto significa, en efecto, es que las compañías privadas tendrán que ser sometidas a las mismas normas que los gobiernos, y deben ser pasibles de ser enjuiciadas por las acciones genocidas y las violaciones de los derechos humanos. En mi opinión, puede ser necesario acusar a los Funcionarios Directivos Ejecutivos de algunas de las más importantes corporaciones del mundo, de crímenes contra la humanidad y juzgarlos por un tribunal internacional independiente y debidamente constituido. La publicación de los nombres de aquellas compañías implicadas en violaciones de derechos humanos sería útil, y se están haciendo esfuerzos en esta dirección con la asistencia de una serie de organizaciones no-gubernamentales. Sería también útil imponer sanciones y organizar boicots contra las compañías implicadas en violaciones sistemáticas de los derechos humanos. Recién cuando las ganancias y los valores de las acciones de las compañías comiencen a disminuir se podrán hacer esfuerzos para doblegar el tipo de maltrato sistemático de los pueblos indígenas, que es un lugar tan común hoy en muchas partes del mundo.

La comunidad empresarial internacional necesita dar nuevo pasos para desarrollar un código de ética comercial que proteja los derechos de los pueblos de las áreas donde las empresas están operando. Los gobiernos y las compañías deben cumplir con su obligación de proteger a los pueblos indígenas y no comprometer sus derechos bajo el peso del llamado «progreso», crecimiento económico, o libre comercio. Finalmente, todas las instituciones, ya sean corporaciones multinacionales, estados, organizaciones no-gubernamentales, o grupos de apoyo a los indígenas, necesitan trabajar conjuntamente para promover los derechos, no sólo de los pueblos indígenas, sino de todos los seres humanos.

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Proyectos de corporaciones multinacionales que han tenido impactos negativos sobre el bienestar de los pueblos indígenas

Compañía	País	Impactos
Ecuador Oil Developments (Petroecuador Maxus Oil Co., Conoco, etc.)	Ecuador	Waorani y otros indígenas forzados a abandonar la tierra, grandes problemas ambientales por derrames de petróleo, envenenamiento del agua, pérdida de la biodiversidad.
Freeport-McMoRan Copper and Gold, Inc. Mining	Papúa Occidental (Irian Jaya)	Amungme y otros papuanos occidentales desposeídos, represión sobre la población local, destrucción ecológica
Total, Unocal (Union Oil Company of California)	Myanmar (Birmania)	Construcción de un oleoducto supuestamente con el uso de mano de obra esclava, abuso de los trabajadores
Royal Ducth Shell	Nigeria	Destrucción del medio ambiente debido a derrames de petróleo, desposesión del pueblo ogoni, opresión, arrestos, detención, muertes y pena capital a activistas ambientalistas
Proyecto Triguero de Tanzania	Tanzania	Agropastores barabaig desplazados de sus tierras, hostigados y encarcelados, acceso negado a las pasturas de invierno y peligro sobre los derechos a la tierra
Borneo Logging (Mitshubishi)	Malasia	Desforestación, desposesión y opresión de las poblaciones penan y orang asli
Western Desert Mining (Rio Tinto Zinc)	Australia	Aborígenes forzados a abandonar áreas tradicionales, contaminación, y destrucción de la base de recursos
Uranium Mining (Kerr-McGee)	Nuevo México	Mineros navajos adquirieron cáncer al pulmón y otras enfermedades pero fueron provistos con compensación y asistencia mínimas
Proyectos Agrícolas (Swift-Armour, King Ranch)	Brasil	La limpieza de bosques para pastoreo de ganado ha llevado a la desposesión, presión sobre la subsistencia y conflictos sociales

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RUSIA

Engaño del gobierno amenaza con la destrucción de la cultura tradicional de los khanty del este

RUSIA

POR ANDREW WIGET Y OLGA BALALAEVA

Desde 1992, financiados por la Fundación MacArthur, hemos trabajado conjuntamente en Siberia Occidental, documentando el estilo tradicional de vida de los *khanty* orientales y evaluando el impacto de la explotación petrolera sobre el mismo. Hemos realizado extensos trabajos de campo consistentes en visitas a los khanty del Yugan todos los años desde ese entonces.

Quedó claro muy rápidamente que se necesitaban tomar medidas urgentes. Ya en 1993, pensamos que vincular al Zapovednik Yugan con el Programa de Reserva de la Biosfera de la UNESCO podría brindar las bases para una estrategia para proteger a la cultura khanty y el medio ambiente del cual dependen. En mayo de 1996, en un seminario internacional en la Universidad de Northern British Columbia, se propuso formalmente la creación de una Reserva de la Biosfera en el Yugan al GOSKOMSEVER, el Comité Estatal ruso para el Norte, el cual patrocinó el seminario y dispone de la responsabilidad general para el desarrollo y la coordinación de programas para el norte ruso y los pueblos indígenas de Rusia. La propuesta fue aceptada.

En julio de 1996, un funcionario de GOSKOMSEVER, el Ministro Adjunto Anatoly I. Volgin, visitó Khanty-Mansiysk, Surgut y Ugut, donde discutió la propuesta reserva de la biosfera y recibió la garantía verbal de acuerdo del director administrativo del Okrug Autónomo Khanty-Mansiiskii, A. V. Filipenko, cuya única condición es que los existentes territorios licenciados sean excluidos de la propuesta Reserva de la Biosfera. Para facilitar la planificación, Filipenko ordenó a la administración de Surgut que facilitara un mapa de las áreas exoneradas existentes y proyectadas de la cuenca del Yugan. El funcionario de GOSKOMSEVER también recibió garantías de los administradores de la región y la aldea, así como de los funcionarios del "zapovednik" y la comunidad khanty de Ugut.

Después de una visita al Yugan por parte de un representante de GOSKOMSEVER en la cual encontró apoyo al concepto, pasamos varios días viajando en barco por los ríos Bolshoi y Malyi Yugan, deteniéndonos en cada asentamiento familiar para explicar la naturaleza del concepto de la Reserva de la Biosfera y para recoger firmas para establecer una en la región de Yugan. Todos los adultos de todas las familias que vimos firmaron con entusiasmo. Trabajando junto con las autoridades de los gobiernos locales, líderes de la comunidad khanty y familias khanty, definimos límites razonables para las diversas áreas de la propuesta Reserva de la Biosfera. Durante el transcurso del año pasado, tanto el GOSKOMSEVER como el Comité del Hombre y la Biosfera de la UNESCO, de Rusia, han recomendado el establecimiento de la Reserva de la Biosfera Yuganksii Khanty.

Ahora parece que una deliberada estrategia, que comenzó hace casi un año, ha sido implementada por la administración del Okrug Autónomo Khanty-Mansiiskii para dilatar la aprobación de la propuesta Reserva de la Biosfera Yugankski Khanty hasta que todos los territorios definidos para el desarrollo dentro de los propuestos límites de la reserva puedan ser ofrecidos para su exoneración. Las pruebas de la urgente necesidad de establecer esta Reserva de la Biosfera y el plan estratégico de dilación y engaño del Okrug se brindan a continuación.

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La última zona de estilo de vida tradicional con integridad cultural y ecológica de los khanty orientales

Los khanty orientales, un pueblo indígena tribal que suma alrededor de 5.000 individuos, sobreviven en un territorio que ha sido su hogar durante miles de años antes de la llegada de los rusos. Los khanty orientales son cazadores de subsistencia y pescadores, a veces criadores de renos, que todavía mantienen su sistema de clan, su religión y lengua nativa, y su estilo tradicional de vida en asentamientos de familias extendidas, sumamente espaciados, en sus territorios tradicionales de caza, frecuentemente de 1 a 4 días de distancia por barco del teléfono y la electricidad. Su cultura nació y está específicamente adaptada al ecosistema de bosque y bañados de la taiga media. Ahora, después de milenios, su tierra, y con la misma su cultura, está amenazada de destrucción.

A finales de la década de 1960 se descubrió petróleo en la cuenca del río Ob' medio, y el gobierno soviético y el monopolio estatal petrolífero comenzaron una "fiebre del petróleo" virtualmente sin ninguna regulación. A comienzos de la década de 1980 Samotlor, el nombre de la primera explotación petrolífera de importancia de la región cerca de Nizhnevartovsk, ya se había convertido en una marca de vergüenza. Hoy, por toda el área, los derrames de petróleo y la contaminación casual ennegrecen las tierras húmedas, los caminos elevados frenan el agua causando inundaciones y arruinando los bosques, los incendios causados por el descuido de los trabajadores petroleros y escombros empapados de petróleo envían columnas de humo al aire, la lluvia ácida arruina enormes territorios.

Siberia occidental, como los campos carboníferos de los Apalaches en los EE.UU. a comienzos de este siglo, se ha convertido en un área nacional de sacrificio, y se sumó a otras regiones siberianas que renunciaron a su vida en aras de la riqueza del estado. A fines de la década de 1980 todas las áreas, excepto unas pocas (río Kazym, Yugan) habían sido apropiadas para la producción por el Ministerio de Energía y el monopolio petrolero del gobierno, y la región mantenía virtualmente una economía soviética en colapso, proveyendo un abastecimiento doméstico de petróleo barato y de petrodólares generados por la exportación. Este período fue marcado por el traslado forzoso de familias khanty de sus territorios familiares tradicionales de caza o la destrucción de los recursos naturales de los territorios familiares ocupados, lo cual forzó finalmente a las familias a reasentarse en forma voluntaria.

Además, el colapso de la Unión Soviética, independientemente de cómo pueda ser considerado en otras partes, sólo agravó las fuerzas destructivas con un nuevo espíritu de libre empresa, capitalismo de frontera que Moscú no puede o no quiere restringir.

El resultado es que después de 3.000 años de ocupación, hoy no existe virtualmente ningún asentamiento familiar tradicional khanty en los ríos Vakh, Agan, Salym y Vas-Yugan, aunque estas eran todas áreas muy pobladas, ricas en términos de la economía tradicional, hace veinte años. Otros sistemas de ríos como el Pim y Trom-Agan están severamente impactados y los khanty están marginados. Sólo las familias khanty en los ríos Bolshoi y Malyi Yugan, unos 850 individuos en más de 40 poblados diseminados de familias extendidas, han sido mínimamente afectados. Hoy están rodeados y la explotación petrolera ahora amenaza con engullir al Yugan, el último territorio prístino de vida nativa de la región.

El rico y complejo ecosistema de Yugan está amenazado

La cuenca de los ríos Bolshoi y Malyi Yugan representa la última, extensa, contigua y virtualmente inafectada zona de taiga siberiana media (río, pantano y bosque) y su fauna asociada. Esta incluye más de 200 tipos de aves, siete de las cuales están en la Lista de Especies Amenazadas de Rusia (Libro Rojo).

Alces, osos, tejones, linces, cebellinas, visones, zorros y renos, pueblan los bosques y los ríos siguen siendo ricos en nutrias, ratones almizcleros, así como percas, lucios, y otros tipos de peces. La misma riqueza del área y su relativo aislamiento impulsaron al gobierno soviético a crear la reserva natural de Yuganskii en 1982.

Tres otras importantes cuencas fluviales (Pim, Trom-Agan y Agan) ya han sido perdidas, la pesca está casi arruinada y los animales peleteros han sido espantados del lugar, y la cultura khanty ha sido significativamente impactada por la destrucción ambiental y, en períodos anteriores, por el reasentamiento forzoso. Aunque el Lamin superior está todavía incontaminado, no existe "zapovednik" o régimen de tierra protegida en esa área y está destinada a ser explotada; su futuro es por lo tanto claro. Hoy, los ríos Bolshoi y Malyi Yugan representan los últimos de los tributarios del río Ob' medio en la región de Surgut que permanecen protegibles e incontaminados por la explotación petrolera. Pero ahora, territorios previamente definidos en la cuenca del Yugan están siendo destinados a la oferta. Muchas de estas proyectadas licencias están ubicadas sobre las áreas de vertiente de los ríos Yugan B. y M., prometiendo daños corriente abajo que magnificarían el impacto de la explotación mucho más allá del territorio licenciado. Se descubrió que una licencia existente, afecta la misma reserva natural, un hecho desconocido hasta para el personal de la misma. Entonces, aunque el Yugan sigue siendo la última área preservable de ecología representativa y una zona compacta de estilo de vida tradicional khanty en una región marcada por un extraordinario grado de daño social y ambiental, *si los territorios destinados a la oferta (como se indica más abajo) son licenciados, el ecosistema de la cuenca del río Yugan y la cultura de aquellos que dependen del mismo serán ciertamente irreparablemente dañados, quizás incluso destruidos.*

Una estrategia para la conservación de la tierra y la cultura: la proyectada Reserva de la Biosfera Khanty Yuganskii

La propuesta Reserva de la Biosfera Khanty Yuganskii combinaría la base territorial del Zapovednik Yuganskii con la base territorial de más de 40 territorios tradicionales de caza de 40 familias khanty a lo largo de los ríos Bolshoi y Malyi, que abraza al Zapovednik en el este y el oeste como dos brazos. El área total bajo protección sería tres veces mayor que el tamaño del mismo zapovednik. Las principales características del plan de uso de la tierra serían (1) la preservación del Zapovednik Yuganskii como un gran muestrario del sistema de la zona de taiga media para el estudio científico en el Area Central y 2 km del Area de Contención 1; (2) la preservación y el desarrollo de la economía tradicional khanty de caza, pesca y recolección en la Zona de Contención 2 (territorios familiares de caza); y (3) exploración limitada, ecológicamente sana, de petróleo en áreas licenciadas existentes en la Zona de Transición. El plan de uso de la tierra prevé también la autogestión para la comunidad khanty. La administración del zapovednik administrará el Área Central y la Zona de Contención 1. La comunidad khanty, como órgano de autogestión, administrará la Zona de Contención 2. Un acuerdo formal de co-administración será firmado entre la comunidad khanty y la administración del Zapovednik Yuganskii, describiendo condiciones de acceso y uso de diversas zonas en la Reserva de la Biosfera; la conservación, el desarrollo y las prioridades logísticas; y procedimientos para impulsar el desarrollo de políticas locales y para la resolución de conflictos. Esta carta será también firmada por representantes de las agencias gubernamentales supervisoras. La aprobación de este zapovednik ya ha sido otorgada por GOSKOMSEVER y el Comité del Hombre y la Biosfera de la UNESCO, de Rusia, durante el año pasado. *No obstante, parece ahora que una deliberada estrategia, comenzada hace un año, está siendo implementada por la administración del Okrug Autónomo Khanty-Mansiiskii para dilatar la aprobación de la propuesta Reserva de la Biosfera Yuganski Khanty hasta que todos los territorios definidos para la explotación dentro de los propuestos límites de la reserva puedan ser ofrecidos en licencia. Las pruebas de ésto se brindan más abajo.*

Historia de la lucha por la tierra y la autodeterminación en el Yugan

1992. El 5 de febrero de 1992, a pesar de la resistencia de delegados que representaban los intereses petroleros, el Consejo de Diputados Populares del Okrug Autónomo Khanty-Mansiiskii (KMAO) emitió "Polozhenie o statuse rodovyx ugodiiv Xanty-Mansiiskom avtonomnom okryge" (Reglamentación relativa al estatus de comunidades de parentesco en KMAO), al cual siguió "O mexanisme v nedreniya olozheniya o statuse rodovyx ugodii v Xanty-Mansiiskom avtonomnom okryge" (Relativo al mecanismo para la aplicación de la reglamentación concerniente al estatus de comunidades de parentesco en KMAO), un Decreto emitido por la Dirección de la Ad-

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ministración de KMAO el 27 de febrero de 1992 "Status Malochislennyx Narodov Rossii: Pravovye Akty I Dokumenty" (El estatus de los pueblos minoritarios de Rusia: leyes y documentos - Moscú: "Literatura Legal", 1994: 310-321). Fueron autorizadas dos formas de comunidad nacional: (1) comunidad y corporación, que podía organizar e invertir, y (2) comunidad que organiza su propio trabajo. La ley permitía que una porción de todos los contratos negociados fueran preservados centralmente para las necesidades más amplias de la comunidad. La elaboración de una ley federal estableciendo autogestiones locales paralelas a los soviets fue casi coincidente con este debate en el okrug.

La aprobación de estas leyes puso en marcha un proceso legal de definición formal de los límites de los territorios familiares de caza (rodovye ugadya) y la emisión de leyes gubernamentales certificando que los derechos de uso de estos territorios pertenecían a las familias que vivían en los mismos. Este proceso comenzó bastante rápido porque, de acuerdo al Art. 21 de las antes mencionadas "Reglamentaciones", a las compañías petroleras que buscaban acceso a los recursos del subsuelo en estos territorios se les requería la obtención de permisos firmados por parte de las familias khanty antes de que el trabajo de exploración o producción pudiera comenzar:

La adquisición de parcelas de tierra en el territorio de tierras de parentesco (para propósitos industriales) puede realizarse ...sólo con el consentimiento del propietario de dicha tierra, y también de los residentes nativos cuyos intereses se vean involucrados. Para lograr el consentimiento de los nativos para esta adquisición, se realiza un referéndum de dichos nativos, y los resultados del mismo constituyen la base para que la administración tome su decisión.

Las decisiones sobre la toma de una parcela de tierra del territorio de tierras de parentesco son tomadas por la administración del okrug, en forma conjunta con la administración regional, después de obtener el consentimiento escrito del propietario de la tierra y resultados positivos del referéndum de los nativos y la aprobación ambiental estatal. (Estatuto, 319)

El Art. 22 de la misma legislación requería un claro acuerdo económico, aprobado por la autoridad administrativa apropiada, entre el propietario de la tierra y la compañía explotadora de la tierra, especificando (1) los términos y condiciones de la explotación, y proveyendo (2) una plena compensación por todas las pérdidas en conexión con el desarrollo, (3) un reparto acordado de los beneficios de la explotación de esta tierra, así como también (4) un pago de arrendamiento por el uso de la tierra (Estatuto, 319). Dos meses más tarde, el Presidente Yeltsin emitió el Ukaz "Relativo a medidas urgentes para proteger los lugares de vida y actividades económicas de los pueblos minoritarios del norte". (Estatuto, 199), requiriendo también una definición territorial y el consentimiento antes de la toma. Este decreto tenía cinco puntos principales: 1) los ministros de las repúblicas deben, a) definir los territorios de uso tradicional de la tierra que son parte de su patrimonio nacional y que no pueden ser enajenados sin su consentimiento para la explotación industrial o de otro tipo que no sea conectada con la economía tradicional; b) transferir sin costo a las comunidades de parentesco y a las familias pertenecientes a las minorías nativas del norte aquellas tierras asociadas con la economía tradicional como propiedad o arriendo de por vida, hereditario; c) otorgar derechos prioritarios para realizar acuerdos y recibir licencias para el uso de recursos naturales renovables a las comunidades de parentesco y a las familias pertenecientes a las minorías nativas del norte; d) definir los territorios tradicionales de manera de efectuar allí un desarrollo sustentable de los recursos; y 2) al gobierno de la Federación Rusa, elaborar un sistema reglamentario para el uso de tierras y recursos en los territorios tradicionales de los pueblos del norte solamente con la aprobación de expertos ambientalistas. (Estatuto: 199).

Fines de 1993. Fue definido un acuerdo económico entre "Maiskneft", que trabaja en Ugut, y 15 familias en la aldea Kinyamino. Fue firmado primero por el administrador de Ugut, lo cual es ilegal, y fueron distribuidas 45 copias a familias, quienes fueron convencidas por la firma del administrador, de que el acuerdo era un hecho consumado. No obstante, ninguno firmó, y las copias fueron devueltas al administrador de la aldea. Recién entonces se llevó adelante un proceso legal, en el cual la gente firmó primero, y luego vinieron las firmas administrativas. A cambio de los derechos de exploración y perforación, a las familias de Kinyamino se les prometió como compensación: (1) nuevas casas de verano e invierno, (2) burano, motores, y dos toneladas de gas anuales, (3) 100.000 rublos por persona, por trimestre, (4) nuevas ropas, (5) educación universitaria paga, (6) radio-teléfono y electricidad, (7) acceso al almacén de la compañía, de bajo precio, de artículos comestibles. Todo lo que obtuvieron fueron buranos, luego mendigaron rublos y vestimentas. Se tomaron en forma de alcohol todo el dinero, y no fueron nunca al bosque ese invierno.

1993-94. La ley sobre comunidades de parentesco de 1992 preveía que sólo las comunidades que tuvieran títulos gubernamentales sobre la tierra podían juntarse para formar comunidades mayores. Sin embargo, en el Yugan, los títulos fueron solamente emitidos a once pequeñas comunidades (familias extendidas), cifra mucho menor que la cantidad de territorios cartografiados y que las familias-comunidades identificadas. Eso se convertiría pronto en un punto muy polémico. La administración de la Región Surgut cesó rápidamente de emitir nuevos títulos sobre la tierra para las restantes familias, y en 1994 un decreto administrativo del director de KMAO, Filipenko, anuló unilateralmente aquellos títulos ya emitidos.

Poco después que KMAO "cancelara" todos los títulos de tierras nativas, alegando que Moscú había expresado que las leyes no eran formalmente correctas, la administración del okrug, encabezada por A. Filipenko, requirió también un nuevo registro de las comunidades nacionales. Filipenko prometió formar una comisión para revisar la ley sobre comunidades nacionales, pero esta comisión no fue formada nunca.

Junio de 1994. El concepto de aplicar el estatus de Reserva de la Biosfera para vincular el territorio de estilo de vida tradicional khanty con el Zapovednik Yuganskii es discutido por primera vez entre los líderes de los khanty yuganskii y la comunidad khanty "Yagun Yakh".

1995. El 6 de marzo de 1995, el director de la Administración Regional Surgut, Sarychev, basado en la decisión de Filipenko, emitió un decreto ("O statuse rodovyx ugodiiv Khanty-Mansiiskom avtonomnom okruge", Documento No. 21) afirmando, en contradicción con la ley general estatal sobre la tierra nativa, que los khanty que tienen casas en aldeas no deberían tener territorios familiares de caza. La gente vive efectivamente en aldeas, pero caza, pesca y obtiene de otras maneras su sustento en sus territorios de caza. Aquellos khanty que han sido reasentados forzadamente o que se han trasladado voluntariamente a aldeas

en un período anterior, fueron así declarados, sumariamente, sin derechos a usar las tierras en las cuales todavía cazaban y pescaban para alimentar a sus familias. El decreto causó una tal ola de protestas que la administración dilató su implementación. El destino del decreto no es claro: por un lado, no ha sido cancelado; por otro lado, no ha sido implementado.

En el verano de 1995, los líderes comunitarios khanty de Yugan aprueban el comienzo del proceso para tratar de establecer una Reserva de la Biosfera como forma de proteger su tierra.

Julio de 1996. Un funcionario de GOSKOMSEVER, el Ministro Adjunto Anatoly I. Volgin, visitó Khanty-Mansiysk, Surgut y Ugut, donde discutió la propuesta *reserva de la biosfera* y recibió la garantía verbal de acuerdo del director administrativo del Okrug Autónomo Khanty-Mansiiskii, A. V. Filipenko, cuya única condición es que los existentes territorios licenciados sean excluidos de la propuesta Reserva de la Biosfera. Para facilitar la planificación, el administrador del okrug ordena a la administración de Surgut que facilitara un mapa de las áreas exoneradas existentes y proyectadas de la cuenca del Yugan. El funcionario de GOSKOMSEVER también recibió garantías de los administradores de la región y la aldea, así como de los funcionarios del zapovednik y la comunidad khanty de Ugut. Un equipo etnográfico (nosotros) comisionados por GOSKOMSEVER viaja por toda la región recogiendo firmas de familias khanty que quieren establecer una Reserva de la Biosfera. Nadie se opone, incluyo aquellos de Kinyamino que habían firmado el anterior acuerdo de "Maiskneft". Sólo tienen dos preguntas: ¿podemos conservar nuestras compañías petroleras? ¿Podemos todavía cazar y pescar en la forma tradicional? El equipo etnográfico está también encargado de trazar límites razonables que excluirían las existentes áreas licenciadas.

Fines de julio de 1996. Los khanty y el personal del zapovednik, trabajando con el equipo etnográfico, quedan impresionados al descubrir según el mapa provisto, tanto la cantidad como el tamaño de las licencias. Muchas de las parcelas estaban aparentemente licenciadas sin el consentimiento o incluso el conocimiento de las familias khanty locales cuyas vidas arruinarán o de los líderes khanty de la comunidad "Yagun Yakh". Esto es particularmente cierto en lo que respecta a la parcela "Ledyanoe", que fue ofrecida sin el conocimiento o aprobación de la familia Kaimysovi, y la parcela "Chietinskoye", que fue aparentemente licenciada en base a la firma de las familias extendidas que vivían en el territorio pero no por los otros. Una parte de una licencia territorial se extiende aparentemente dentro del límite suroriental del zapovednik.

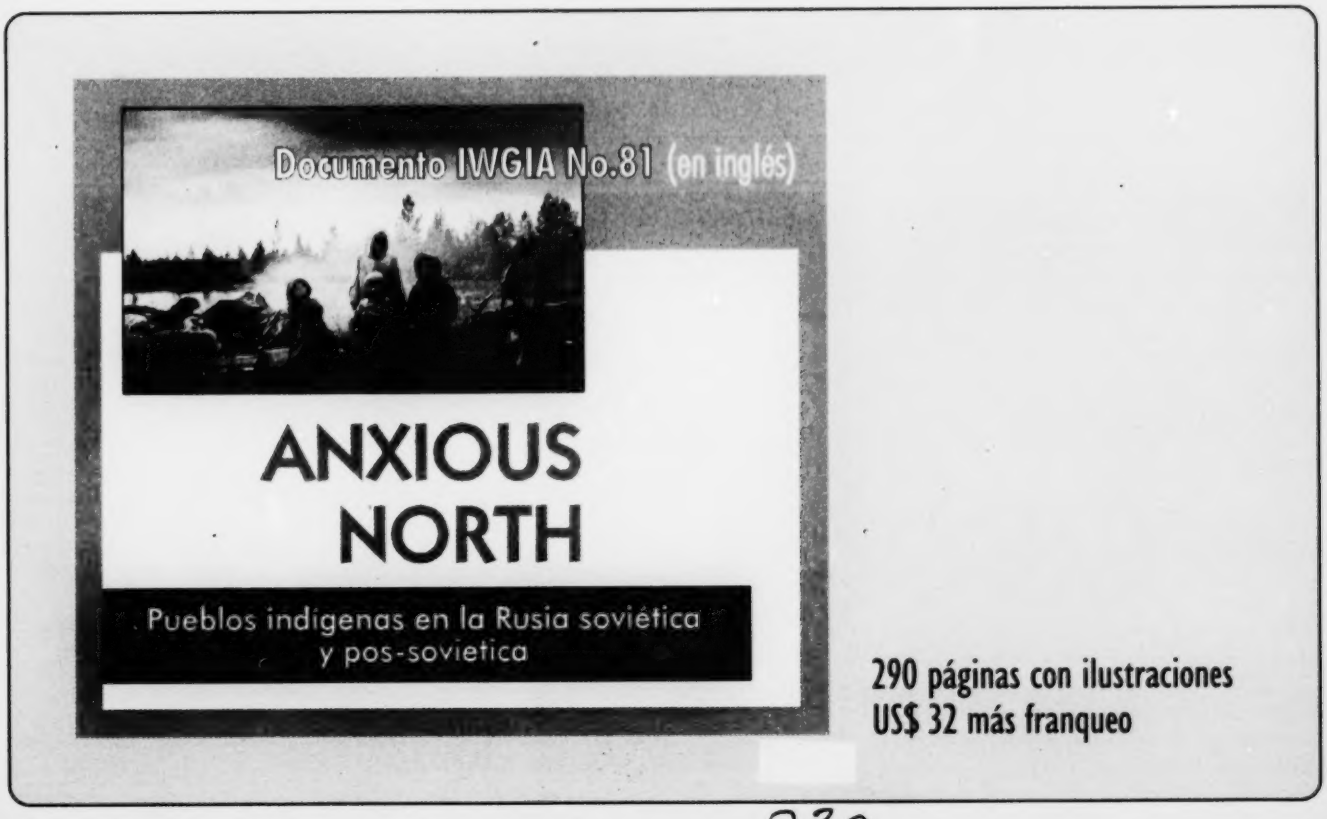
Diciembre de 1996. La parcela "Unt'neiskaya Kulunskaya" en el bajo Bolshoi Yugan es destinada a la oferta.

Febrero de 1997. La administración del Okrug Autónomo Khanty-Mansiiskii esta-

ba otra vez preparando la oferta de parcelas de tierra para la explotación petrolera en las cuencas de los ríos Malyi Yugan ("Achimovskoye") y Bolshoi Yugan ("Multanovskoye"), tierra histórica y actualmente ocupada por familias khanty y oficialmente identificada a comienzos de la década de 1990 como territorios familiares de caza, sin el conocimiento o consentimiento de las familias khanty involucradas o el consentimiento de la comunidad Yagun Yakh.

Parece entonces que, en directa violación de la ley Federal Rusa y los protocolos internacionales, 1) parcelas de tierra han sido ofrecidas en forma general para la producción de petróleo, despojando a los khanty -quienes sobreviven gracias a la caza y pesca de subsistencia y de las ventas de las pieles conseguidas en sus territorios- de los únicos medios de sustentar a sus familias, y sin el conocimiento y consentimiento de los khanty poseedores de la tierra, en manifiesta violación de la ley, sin el consentimiento de aquellos nativos interesados, incluyendo a la comunidad "Yagun Yakh", en manifiesta violación de la ley; 2) la licencia "Tailakohovskoye" incluye una porción del territorio del Zapovednik Yugan, en manifiesta violación de la ley; 3) el proceso para lograr el acuerdo de Maiskneft, de 1993, aunque finalmente corregido como resultado de los esfuerzos de los activistas locales, reflejó, tal como comenzó inicialmente, un intento de intimidar a los residentes de Kinyamino con un hecho consumado, otra vez en manifiesta violación de la ley relativa al proceso para lograr acuerdos; y, 4) las recientes disposiciones para ofertas de las parcelas "Achimovskoye" y "Multanovskoye" representan una estrategia deliberada para subvertir la voluntad expresa de los khanty yuganskii de preservar sus territorios de caza como una Reserva de la Biosfera -tal como se había hecho saber a las administraciones aldeanas, regionales y del okrug- mediante la venta de toda la tierra posible para la explotación, sin el conocimiento o consentimiento previo de los khanty con el objetivo de fracturar tanto al territorio de la propuesta Reserva de la Biosfera Khanty Yuganskii que sea inapropiado para obtener el estatus de Reserva de la Biosfera. 5) las recientes disposiciones para ofrecer las parcelas "Achimovskoye" y "Multanovskoye" no fueron realizadas de acuerdo con el procedimiento definido en la reciente ley ambiental aprobada por la Duma en diciembre de 1995, el cual requiere una evaluación ecológica y etnográfica independiente.

En su totalidad, esta historia sugiere un modelo de engaño e ilegalidad impulsado únicamente por el lucro, con el propósito de negar las justas reivindicaciones de los khanty de controlar los derechos de uso relativos a sus territorios familiares de caza y para privarlos de los medios de subsistencia sin su conocimiento o consentimiento y en contra de la voluntad públicamente expresada. Esto, para una cultura de subsistencia, significa un etnocidio. ❑



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RUSIA

TERCER CONGRESO DE LA ASOCIACION DE LOS PUEBLOS INDIGENAS MINORITARIOS DEL NORTE, SIBERIA Y EL LEJANO ORIENTE DE LA FEDERACION RUSA (AIPON)

por Claus Oreskov

RUSIA

El 27 y el 28 de marzo de 1997 los pueblos indígenas de toda Siberia y el Lejano Oriente ruso se reunieron en Moscú por tercera vez para discutir la seria situación social y económica en que se encuentran estos pueblos y para elegir a un nuevo presidente de AIPON.

Los problemas que los líderes regionales informaron son muchos y muy complejos. A pesar de todo esto, es posible ver un modelo de problemas idénticos y quejas idénticas.

Las posibilidades de comunicación son muy malas en la mayoría de los lugares. Los pueblos indígenas están, por lo tanto, muy aislados y es difícil para ellos hacer llegar sus quejas antes de que sea muy tarde.

La infraestructura es muy mala en muchos lugares y en algunos lugares no existe ningún tipo de infraestructura. Por lo tanto, es imposible para los pueblos indígenas refinar y exportar sus productos. Es también difícil obtener suministros del extranjeros. Como resultado, existe una falta de productos que satisfagan las necesidades diarias en muchos lugares.

Los sistemas educativos y de salud están en un estado crítico y en muchos lugares faltan médicos, enfermeras y medicamentos.

Los pueblos indígenas desean el desarrollo, pero temen la asimilación. Como lo formuló uno de los delegados (del lejano oriente): «la idea rusa de desarrollo es lo mismo que la asimilación».

La ocupación primaria de los pueblos indígenas en la mayoría de los lugares es: la cría de renos, la pesca, la caza, la recolección, las artesanías y las pequeñas empresas. Las ocupaciones primarias están amenazadas y en algunos lugares han desaparecido. Las razones son muchas. La contaminación fue mencionada, la falta de infraestructura, pero también la privatización y la explotación de la tierra indígena.

Una y otra vez fue mencionado que existía la necesidad de una legislación apropiada para la protección de los derechos indígenas.

Los testimonios son demasiados para ser referidos, pero mencionaré algunos:

El Okrug Khanty-Mansi: la cantidad de renos ha sido dramáticamente disminuida. La venta de astas está arruinada por el mercado negro. El precio de mercado de las astas es por ejemplo 6$ pero en el mercado negro es solo de 2$. Las casas son de

Entrevista con Gennady N. Maimago, Presidente de la Asociación del Okrug Taymyr

Por Claus Oreskov

G. Maimago: El distrito de Taymyr está ubicado en el paralelo 69, en la zona del río Yenisei, y pertenece por lo tanto a lo que en Rusia se llama el extremo norte. Aquí viven distintos pueblos indígenas: los *dolgan, nganasan, nenet, enet*, uno de los pueblos más pequeños del mundo y los *evenky*. La mayoría vive de la caza, la pesca y la cría del reno.

C.Oreskov: *¿Se ha combinado una economía de subsistencia y monetaria? ¿Pueden vender sus productos?*

GM: En la época soviética vendían sus productos al estado. Hoy, p. ej., el transporte es un problema. En el transcurso de los últimos 10 años el costo de una hora de transporte en helicóptero ha aumentado un millón de veces. Costaba 74 rublos hace 10 años, ahora cuesta 7,5 millones de rublos. No podemos vender nuestras mercaderías porque no se pueden transportar hasta el mercado. Las diferentes medidas del gobierno para solucionar los problemas del transporte no sirven de nada debido a la catastrófica situación económica de Rusia. Ninguno de los responsables del gobierno conoce la situación de los pueblos indígenas y sus problemas específicos. Antes, cada uno de los pueblos indígenas que viven en Taymyr tenía su propio modo de subsistencia. En la época soviética los dolgan y los nganasan cazaban renos salvajes. Ahora hay un gran desempleo. Los nenet y los enet que viven a lo largo del río Yenisei pueden obtener dinero de la pesca pues los peces que hay aquí son de mucha demanda. Las antiguas granjas colectivas (p. ej. las granjas de cría de renos) se dividen ahora entre las familias. El problema es que no existe ningún control, ni de las autoridades federales ni de la administración local. Puede tener consecuencias catastróficas, p. ej., epidemias, como las que se experimentaron en la década de los 70. Después de la última epidemia, los nganasan, que eran nómadas, se vieron obligados a asentarse en un pueblo y a partir de entonces han estado desempleados. Debido a la falta de control, existen grandes posibilidades de que esas epidemias se expandan a la ribera izquierda del río Yenisei. Hay un alto nivel de contaminación debido a las actividades mineras. Muchos lugares donde tradicionalmente la gente cazaba y pescaba, son ahora inutilizables. Nunca han recibido ninguna forma de indemnización por las zonas destruidas. Hay una fábrica que los pueblos indígenas consideran un monstruo. La fábrica fue establecida a comienzos de los

los años 40, son pequeñas y están hacinadas y necesitan reparación. La economía es mala y mucha gente no sabe como sobrevivir hasta el final del día. Los intentos de hacer una empresa local no han tenido éxito. La privatización ha fallado. El 5% de la extracción de petróleo en el área debería beneficiar a los indígenas, pero no se ha llegado tan lejos. El fondo para la seguridad social para la gente del norte funciona de manera opuesta de lo que se supone que debería hacer. Ahora explota a los indígenas. Hay un gran problema de alcoholismo y la pobreza es muy seria en el área.

En el Okrug Nenet la tasa de mortalidad infantil está en aumento y nacen muchos niños deformes, posiblemente como resultado de la alta radiación en el área proveniente de las plantas militares. Hay un 46% de desempleo, un problema que es especialmente agudo entre las madres solteras. Las casas están en malas condiciones y la mayoría de las familias no disponen de más de 10 metros cuadrados. Hay deseos de establecer un gimnasio en el área.

En Tjukotka hay problemas con la contaminación del agua del mar, los peces y los mamíferos marinos. Las rutas de migración de los mamíferos marinos están alteradas. Las cuotas de pesca de la ballena hacen que sea imposible desarrollar la ocupación tradicional de la pesca de la ballena. Las manadas de renos que antes contaban con 25.000 renos están ahora reducidas a 15.000. No hay médicos ni medicamentos y la administración local no ayuda para nada.

En el Okrug Evenk la cría de renos ha disminuido en forma dramática. De la población original de 16.000 renos quedan sólo unos 400. Las ex granjas colectivas soviéticas han dado quiebra y las nuevas granjas privadas necesitan apoyo financiero. Hay una falta general de suministro de alimentos en el área. Carecen de posibilidades educativas para la juventud. Existe una gran tasa de desempleo, problemas de alcoholismo y enfermedades que no pueden ser tratadas a causa de la falta de medicamentos.

El futuro de los pueblos indígenas de Rusia es muy incierto y como dijo uno de los delegados de Taymyr: «Este es nuestro tercer congreso y todavía tenemos los mismos problemas que en el primer congreso. Los pueblos indígenas no reciben ayuda o comprensión del gobierno o del presidente».

Muchos delegados subrayaron que la existencia de malos funcionarios y políticos que no se preocupaban era una de las razones de la horrible situación de los pueblos indígenas de Rusia. Algunos delegados mencionaron que se debía a la crisis que está sufriendo toda Rusia, la cual incluye a todas las clases del estado ruso y a todos los pueblos. La crisis golpea diferente y los pueblos indígenas, debido a razones históricas, están más expuestos que otros muchos grupos. Muchos pueblos indígenas han sido dependientes de la economía general. Cuando ésta pasa por una crisis en el centro los problemas se sienten mucho más en la periferia dependiente donde viven los pueblos indígenas.

Los delegados del tercer Congreso de AIPON eligieron a Sergei N. Kharuchy como presidente de la asociación. Sergei N. Kharuchy, quien reemplaza a Eremei D.Aipin, es un conocido político local de Salkhard en el Okrug Nacional Yamano Nenet en Siberia occidental. IWGIA felicita al nuevo presidente de AIPON y le desea buena suerte con las grandes y difíciles tareas que le esperan. ❑

años 30. En ese entonces había hambre y los pastores de renos debieron abandonar sus renos para trabajar en la fábrica y en la construcción.

***CO:** ¿Qué tipo de fábrica era?*

GM: Era una fábrica de procesamiento de productos de las actividades mineras extractivas.

***CO:** ¿Existe algún tipo de legislación para los pueblos indígenas?*

GM: La situación legal de los pueblos indígenas del norte fue propuesta en la Duma, la cual la pasó al parlamento ruso. Aquí fue rechazada la propuesta. El presidente también la rechazó.

***CO:** ¿Qué posibilidades hay de eliminar el desempleo y qué se necesitaría?*

GM: Vamos a invitar a investigadores para que analicen la situación porque los 5 pueblos indígenas de Taymyr son muy distintos. Un pueblo puede, p.ej., producir mercancías, peronecesita ayuda para transportarlas, otros tienen que comenzar desde el inicio porque sus antiguas actividades están destruidas y tienen que ser capacitados en algo diferente. Hay una cosa muy clara ahora, no se puede volver a las actividades tradicionales. Nos vemos obligados a capacitar a la gente de nuevo.

Agradecemos la interpretación de Leonid Khmelnitskij.

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***Claus Oreskov** es antropólogo y miembro del grupo nacional de IWGIA en Dinamarca* ❑

Foto: Mads Fægteborg

Edvin Rensberg captado en un instante

Por Claus Oreskov

En la parte más meridional de Sameland (el País Sami), para ser más precisos Härjedalen y Dalerne, en los últimos años se ha dado una violenta lucha sobre los recursos entre los *samis* criadores de renos y los terratenientes. Durante los últimos años este conflicto ha tenido como resultado una sentencia en el Juzgado de Primera Instancia de Sveg, que rechaza el derecho consuetudinarios ancestral de los samis a las tierras de pastura. Yo me encontré con Edvin Rensberg, presidente de la aldea sami de Tännäs, una de las cinco aldeas samis implicadas de la zona. Edvin Rensberg recién había terminado de marcar a los terneros, lo cual sucede en el mes de julio. Aunque el marcado de los terneros terminó, Edvin Rensberg es un hombre muy ocupado, que está comprometido en el trabajo sindical y político en la aldea sami y en el Parlamento Sami de elección popular. Sin embargo, encontró tiempo para realizar una entrevista y hablamos íntimamente en la cocina de Rensberg en torno a una taza de café acompañada de carne de reno seca.

Claus Oreskov (C.O.): ¿Cómo está organizada la cría de renos en la aldea sami?

Edvin Rensberg (E.R.): La cría de renos se organiza fundamentalmente a partir de la legislación, existe una ley sobre cría de renos que destaca la directivas de cómo deben organizarse las aldeas samis. El trabajo es dirigido por una dirección y un presidente. La cría de renos se realiza en forma colectiva. Tenemos hoy 9 unidades de producción, que en realidad se puede comparar con 9 familias, que viven exclusivamente de la cría del reno.

C.O.: ¿Son las unidades de producción las mismas todos los años?

E.R.: Normalmente no se cambian, sólo si existe un cambio generacional, p. ej., si los padres se jubilan y los jóvenes se hacen cargo de la producción.

C.O.: ¿Cómo se aprovechan las diferentes zonas de pasturas durante el año?

E.R.: La cría de renos pertenece a las áreas alimenticias, es decir, que nosotros utilizamos zonas geográficas relativamente grandes. Las zonas de pastoreo de verano llegan hasta la frontera noruega y en el invierno nos trasladamos 100 kilómetros hacia el este hasta las zonas boscosas y entonces llegamos incluso hasta el río Oesterdal, tan abajo como en Dalerne. Pastoreamos los renos en una dirección norte-oeste y sur-este.

C.O.: ¿Son las mismas tierras de pasturas que se utilizan todos los años?

E.R.: Son las mismas zonas de pasturas que se utilizan año tras año, pero se utilizan las distintas zonas según la estación dependiendo de en cual época del año se está. En verano estamos arriba, en las zonas de las altas montañas, porque es demasiado caluroso para los renos en el bosque y allí paren. Y en otoño comenzamos otra vez nuestra migración hacia abajo.

C.O.: Las zonas de pasturas que utilizan ahora, ¿son las mismas que sus ancestros usaron o tienen un tamaño diferente?

E.R.: Han sucedido algunos cambios, debido al desarrollo de la sociedad. Cuando yo comencé con la cría de renos pastoreábamos los renos en zonas definidas, pero éstas, debido al turismo, etc., ya no son posibles de utilizar.

C.O.: ¿Quiere decir que han perdido zonas de pastoreo?

E.R.: Sí, las zonas de pastoreo se han reducido.

C.O.: ¿Hay posibilidad de ampliar la cría de renos en Härjedalen?

E.R.: No, no existe ninguna posibilidad, por el contrario, parece que irá en el otro sentido. Es decir, que la zona de pastoreo será tan pequeña que deberemos disminuir la cantidad de renos. La consecuencia de ésto será que habrá menos personas que puedan sustentarse de la cría del reno.

C.O.: ¿Están abocados a la cría del reno a tiempo completo o puede ser también un trabajo por estaciones?

E.R.: Las racionalizaciones han significado que nosotros, aquí, en la aldea sami, somos 9 personas que trabajamos a tiempo completo con la cría de renos. Los miembros de la familia, p. ej., las esposas, tienen por lo general otros trabajos como suplemento de la cría del reno.

C.O.: ¿Era un matadero de renos que yo pasé por camino a tu casa?

E.R.: Sí, es un viejo matadero, pero las reglas modernas de la Unión Europea para el tratamiento de productos alimenticios hacen que ya no sea aprobado (Suecia se convirtió en miembro pleno de la Unión Europea en 1997). Ahora debemos transportar a los renos hasta un matadero aprobado por la UE que queda a casi 300 km. de aquí.

C.O.: ¿Qué significado tiene la cría del reno para la cultura e identidad de los samis del sur?

E.R.: Toda la cultura sami descansa en la cría del reno y sin ésta desaparecerá.

C.O.: ¿Significan algo la caza y la pesca para la subsistencia?

E.R.: Sí, tienen una gran importancia para la subsistencia sami como suplemento de la cría del reno.

C.O.: Quisiera hablar sobre el conflicto que existe aquí en Härjedalen entre los samis criadores de reno por un lado y los terratenientes por el otro.

E.R.: La causa real es bastante difícil de explicar, pero fuimos demandados por los terratenientes a través del Juzgado de Primera Instancia de Sveg, donde en la solicitud de demanda se sostenía que los samis no tenían

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ninguna base jurídica para practicar el derecho consuetudinario al pastoreo en terrenos privados.

C.O.: ¿Cómo influye económica y psíquicamente sobre ustedes, cotidianamente, el conflicto?

E.R.: Antes que nada, lo más difícil en el trabajo jurídico es presentar pruebas concretas y documentos escritos de un período de tiempo durante el cual no se exigían documentos, así que el problema es probar de que ha existido históricamente la cría de renos y el derecho consuetudinario. El problema es presentar documentos que en realidad no existen, y hace que sea difícil probar que se tiene el derecho al pastoreo frente a un tribunal. Esta es una presión psíquica. La consecuencia de la sentencia del Juzgado de Primera Instancia de Sveg también la experimentamos como una presión económica, pues como perdimos se nos impuso la obligación de pagar los costos y costas procesales de la contraparte. Los costos y costas procesales totales en el Juzgado de Primera Instancia se acercan a 10 millones de coronas suecas. Hemos tomado un préstamo de 8 millones de coronas para pagar nuestros costos y costas. Además hemos tenido que tomar un préstamo de 4 millones de coronas para pagar los costos y costas de los terratenientes. Los millones restantes todavía los debemos a la Asociación Nacional de Samis Suecos (SSR), de la cual somos miembros. Todavía no hemos encontrado financiamiento para ese dinero. Los problemas económicos constituyen también una presión psíquica porque, ¿cómo los vamos a solucionar? Al mismo tiempo que los procesos jurídicos prosiguen en la Audiencia Territorial.

C.O.: ¿Hubo alguien de las aldeas samis que perdió zonas de pasturas de invierno como consecuencia de la sentencia del Juzgado de Primera Instancia de Sveg?

E.R.: Si el resultado de la sentencia de Sveg se mantiene, si es ratificado, implica que todas las aldeas samis de Härjedalen perderán sus pasturas de invierno.

C.O.: ¿Es cierto que el caso prosigue en la Audiencia Territorial?

E.R.: El caso está apelado frente a la Audiencia Territorial, así que la sentencia todavía no está ratificada. Si perdiéramos en la Audiencia Territorial y en la Suprema Corte la consecuencia sería que además de las costas y costos tendríamos que pagar daños y perjuicios (por uso del área de pastoreo) desde febrero de 1996, cuando se emitió la sentencia de Sveg.

C.O.: Si ustedes no consiguen todo el dinero necesario, ¿son entonces las aldeas samis de Härjedalen que tienen la responsabilidad por la suma?

E.R.: Probablemente las aldeas samis se verán obligadas a declararse en concurso. No veo otra salida hoy, si no encontramos ninguna otra forma de financiación. Estamos abocados actualmente a encontrar otra forma de financiación, pero no sabemos si lo lograremos.

C.O.: ¿Existe una solución política para el conflicto?

E.R.: El problema de una solución política por ahora es que es sumamente difícil de implementar mientras que prosiga el juicio. El gobierno sueco tenía posibilidad de implementar las soluciones políticas que eran factibles antes de que el juicio comenzara en Sveg, pero presuponían también de que existía un derecho consuetudinario de tal forma que no era necesaria una solución política.

C.O.: Tu expresaste que son miembros de SSR. ¿Qué significa para las aldeas samis en el caso concreto ser miembro de una organización de interés tan grande?

E.R.: A través de SSR recibimos apoyo de las otras aldeas sami del país, al mismo tiempo que tenemos posibilidad de informar internacionalmente, a través de SSR, sobre lo que sucede aquí. De esa manera quizá se pueda crear una solidaridad internacional que pueda ejercer presión para una solución política posterior, si perdemos los juicios.

C.O.: ¿El Parlamento Sami los puede ayudar en este caso?

E.R.: Lo que pueden hacer es ejercer presión sobre el gobierno pero al mismo tiempo es también aceptado que es difícil para el gobierno meterse en el caso pues implica que debe tomar partido por una parte o por la otra, independientemente de lo que haga. Puede al menos interpretarse así. Así que lo único que el Parlamento Sami puede ayudar en este momento es quizá a encontrar una posibilidad financiera para pagar las expensas del caso.

C.O.: ¿Qué puede hacer la gente común para apoyar a los samis en este caso?

E.R.: Abrimos una cuenta y hemos hecho un llamamiento de ayuda económica, lo cual es lo que más necesitamos hoy, para poder presentar nuestro caso a los tribunales superiores. La mayor catástrofe sería si no tenemos posibilidad de presentar nuestro caso a los tribunales superiores.

C.O.:¿Sabes cuando el caso va a juicio otra vez?

E.R.: En este momento se calcula que el caso será presentado a la Audiencia Territorial a finales de 1998, y luego pasarán otros 3-4 años antes de que el caso llegue a la Suprema Corte.

C.O.: ¿Así que van a tener que vivir en la inseguridad los próximos años?

E.R.: Sí, yo pienso que tendremos que vivir con esta inseguridad otros 10 años, hasta que el caso haya sido tratado por la Suprema Corte. Si perdemos el caso allí, nos obligarán a presentar el caso a un tribunal internacional.

C.O.: ¿Qué significa eso para la juventud, que sin duda conoce el caso, se dedicarán a la cría de renos?

E.R.: Lo que sucede es que el caso ha ejercido una fuerte presión psicológica, así que aún como padre uno puede temer alentar a los hijos a dedicarse a la cría de renos cuando el futuro es tan incierto. El riesgo es si se tiene un hijo de 20 años de edad, que está por elegir su profesión para el resto de la vida. ¿Habrá que apostar a ser un pastor de renos o a llegar a algo en industria sueca? La cuestión es si uno se atreve a aconsejar a los hijos que se dediquen a la cría de renos pues la respuesta se sabrá recién dentro de 10 o 15 años y entonces puede resultar que uno los ha aconsejado por mal camino. Es muy difícil vivir con esta inseguridad al mismo tiempo que se vive con la esperanza de que la cría de renos sobreviva.

C.O.: ¿Hay algo que quieras decir que yo no te haya preguntado?

E.R.: En lo referente a recibir apoyo y solidaridad internacional, estamos trabajando para crear una «paternidad» mediante la cual el mundo exterior pueda adoptar nuestros renos, y de esa manera recibir una contribución económica para proseguir con el caso.

Después de una corta conversación nos encontramos hablando sobre quién llegó primero a Härjedalen, los samis o los suecos, y quién es el dueño real de la tierra, y entonces Edvin Rensberg surgió con un comentario que da que pensar: Se me hace muy difícil comprender cómo alguien puede en realidad poseer la tierra. Visto desde el punto de vista de la cría de renos, si alguien fuera dueño de la tierra, serían los renos; deberían poseer la tierra sobre la cual deambulan y estaban aquí antes que el ser humano.

C.O.: Los que dicen que poseen la tierra, ¿tienen un concepto erróneo de la naturaleza?

E.R.: Sí, a mi me parece que es una forma errónea de considerar a la naturaleza, pero todos dicen que es la civilización que llegó, pero yo creo que la civilización entonces se comporta muy incivilizadamente.

IWGIA exhorta a apoyar el fondo que las aldeas sami han abierto para llevar adelante el proceso legal y la lucha cultural. Esto se puede hacer mediante el apoyo económico directo u organizando grupos ad hoc, que puedan organizar distintas actividades en las cuales se pueda reunir dinero y se pueda informar sobre la situación de los samis en Härjedalen.

Los aportes se pueden enviar a: «Fonden for den sydsamiske kultur» (Fondo para la cultura de los samis del sur), giro postal sueco No.: 375164-1. ❑

53a. Sesión de la Comisión de Derechos Humanos

2 de abril de 1997, Ginebra

Intervención de Anti-Esclavitud Internacional (a través de la Alianza de los Pueblos de la Cordillera) sobre el Punto 24 de la Agenda

Gracias Sr. Presidente.

Quiero llamar su atención sobre el informe publicado por Anti-Esclavitud Internacional e IWGIA titulado «Pueblos esclavizados en los 90». Este informe cita varios casos de estudio de diferentes partes del mundo que dirigen la atención sobre aquellos aspectos de la esclavitud que tienen impacto definido sobre los pueblos indígenas. Entre los casos citados se encuentran los casos de los *aetas* y los *agtas* de las Filipinas. El informe identifica la servidumbre por deudas como la forma más común de esclavitud que afecta a los pueblos indígenas. El informe concluye además que la servidumbre ocurre fundamentalmente a causa de que los pueblos indígenas han perdido el acceso y el control directo sobre sus tierras y recursos. Cuando los pueblos indígenas pierden el acceso y el control sobre sus tierras, se ven forzados a incurrir en deudas que muy frecuentemente los llevan a la servidumbre por deudas. Junto con esta forma contemporánea de esclavitud, los pueblos indígenas están también perdiendo rápidamente sus estructuras socio-políticas y se enfrentan a la muy real amenaza de perder su identidad como pueblos diferenciados.

Sr. Presidente, los casos presentados en el informe de ASI no constituyen de ninguna manera hechos aislados, en realidad los pueblos indígenas de todo el mundo han acudido repetidamente a las Naciones Unidas para expresar sus penurias. Con el advenimiento del GATT-WTO y la subsecuente liberalización del comercio y las economías por parte de los gobiernos de los estados, los pueblos indígenas han sido una vez más llamados a sacrificar sus tierras, recursos y vidas en el interés de la competitividad mundial. En la Cordillera, Filipinas, las tierras ancestrales de los pueblos *igorot* están siendo invadidas por las compañías mineras extranjeras que han sido alentadas por el gobierno filipino a invertir en el país. Las inversiones con que el gobierno filipino tienta a las compañías incluyen normas muy reducidas de protección ambiental y un acceso virtualmente libre a las tierras y recursos de los pueblos indígenas. Las tierras que se han salvado del saqueo de las compañías mineras han sido destinadas a represas hidroeléctricas que han de ser construidas para satisfacer las necesidades energéticas de estas mismas compañías mineras.

Esta es la situación en la que se encuentran los *ibaloys* de Benguet. Sus tierras se encuentran bajo la doble amenaza de las minas y las represas.

Y a pesar de la tan publicitada restauración de la «democracia» en las Filipinas, no ha existido ningún diálogo significativo o consulta entre el gobierno y los pueblos afectados. En el pasado mes de febrero, una delegación de ibaloys viajó a la ciudad de Baguio para intentar obtener una audiencia con el presidente, quien en ese momento se encontraba allí en ocasión de un torneo de golf. En vez de una audiencia, los ibaloys fueron dispersados violentamente por la policía gubernamental. Lo que es aun peor es que aquellos que se han opuesto públicamente a la construcción de la represa en territorio indígena se han visto sometidos a un hostigamiento constante por parte de agentes gubernamentales, alimentando el creciente temor de la comunidad de que la militarización no se encuentra lejos. Esto ha sido también ratificado por el hecho de que se ha emitido órdenes de arresto contra 28 líderes comunitarios que simplemente trataron de defender sus hogares contra la destrucción por parte del proyecto de mina a cielo abierto de una firma minera.

Sr. Presidente, esto constituye una grave violación de los derechos colectivos de los pueblos indígenas, sus tierras están siendo despojadas por las compañías mineras y lo que resta de ellas están siendo sumergidas por los embalses. ¿Dónde se supone que vayan los igorot? ¿Dónde vamos a buscar refugio? Es en este contexto, Sr. Presidente, que solicitamos una intervención activa y urgente de las Naciones Unidas.

Si bien se han dado algunos pasos hacia el reconocimiento de la existencia de los pueblos indígenas de todo el mundo, queda todavía mucho por hacer en el área del reconocimiento, la protección y la promoción de los derechos indígenas. Los pueblos indígenas siguen quedando al margen cuando se realizan discusiones y decisiones importantes que afectan directamente a nuestras vidas. La actual práctica de la ONU de limitar la participación de los pueblos indígenas en varias de sus reuniones es un caso destacable. Ya hace veinte años que los pueblos indígenas entraron por primera vez a la ONU pero la actitud de la misma y de los gobiernos de los estados que constituyen este organismo no ha cambiado mucho. Los pueblos indígenas tienen todavía que depender de la buena voluntad de ONGs acreditadas para poder participar en las deliberaciones, e incluso bajo severas limitaciones. Para un efectivo ejercicio de los derechos fundamentales que la ONU busca mantener, se debería permitir a los pueblos indígenas participar en todas las discusiones y decisiones que afecten sus vidas.

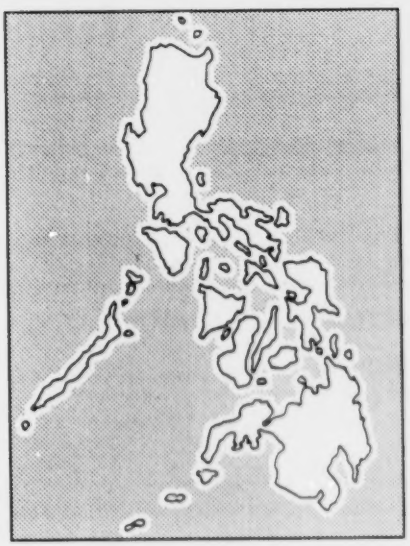
Si bien la Comisión de Derechos Humanos ha permitido la participación de organizaciones indígenas en las deliberaciones sobre la declaración preliminar sobre los derechos de los pueblos indígenas en el grupo de trabajo de la subcomisión, una gran cantidad de organizaciones indígenas, especialmente aquellas de Asia, siguen sin estar acreditadas debido a la oposición de ciertos gobiernos. La participación de las organizaciones indígenas en estas deliberaciones no debería ser considerada como una amenaza a los gobiernos sino que debería ser considerada como un fortalecimiento de la colaboración entre los pueblos indígenas y los gobiernos en la prosecución de los objetivos de la ONU. Se exhorta a los gobiernos a dar la bienvenida a la participación activa de los pueblos indígenas en estas discusiones, pues beneficiará no sólo a los pueblos indígenas sino a todos los pueblos en general.

Además, desearía llamar la atención de la Comisión de Derechos Humanos sobre la creciente tendencia de parte de gobiernos de estados miembros a negar el derecho de los pueblos indígenas a viajar. Ha sucedido en varias oportunidades que los líderes indígenas han sido impedidos de abandonar sus países para asistir a reuniones y conferencias internacionales que discuten los derechos indígenas. El ejemplo más reciente de ésto es el caso del Sr. Raymond Abin, a quien se le impidió salir de Malasia en el pasado mes de marzo para asistir a la Conferencia Internacional de IAITPTF en la India. Tal práctica, y también la de negar a los pueblos indígenas el derecho a celebrar conferencias internacionales deberían ser denunciadas y se debería impedir que vuelvan a ocurrir.

Sr. Presidente, finalizaré esta intervención haciendo un llamado a todos los estados miembros para que apoyen la resolución que llama a un segundo seminario sobre el propuesto Foro Permanente para los pueblos indígenas. Recordamos que esta propuesta fue un resultado de la Conferencia Mundial sobre Derechos Humanos en reconocimiento de la urgente necesidad de institucionalizar un organismo dentro de los mecanismos de la ONU, mediante el cual pueda actuarse con respecto a los temas críticos que atañen a los pueblos indígenas. Hay mucho para discutir con respecto al Foro Permanente, sin embargo, queremos recordar que para que exista una discusión provechosa, debería asegurarse la plena y activa participación de los pueblos indígenas en todas las reuniones. Finalmente, hacemos un llamado a los gobiernos para que apoyen todas las iniciativas provenientes de los pueblos indígenas relacionadas con el establecimiento de un foro permanente. Es sumamente deseable que se celebren reuniones regionales entre pueblos indígenas, gobiernos y ONGs para lograr los mejores aportes relativos a la propuesta.

Muchas gracias, contemplamos esperanzados el día en que la Comisión de Derechos Humanos nos permita, a todos los pueblos indígenas, expresarnos sobre nuestros propios derechos. ❑

El Programa Legislativo de los Indígenas Filipinos



por
Vicente P. de Guzmán
y Deo Culia

PANLIPI
El Centro de Asistencia Legal para los Indígenas Filipinos

Derechos al territorio ancestral y desarrollo sustentable

El desarrollo sustentable es definido como aquel que promueve el desarrollo total de todos los sectores y adopta el principio del crecimiento con equidad entre los pueblos, generaciones y localidades. Es también aquel que encara las dimensiones económicas, sociales y ambientales de la cuestión de la pobreza. Para los pueblos indígenas de las Filipinas, el desarrollo sólo puede ser sustentable si encara la razón fundamental de la pobreza prevaleciente en la mayoría de las comunidades indígenas, la ausencia de reconocimiento legal de su derecho a la propiedad y el control de sus territorios ancestrales. El Derecho al Territorio Ancestral es, para los indígenas *filipinos*, un tema del desarrollo.

Los territorios ancestrales, las tierras y recursos que los pueblos indígenas han nutrido a través de generaciones, proveen la base económica para su supervivencia como individuos y comunidades. La tierra define los papeles políticos y sociales de cada miembro de la comunidad y sirve como contexto dentro del cual se realizan las interacciones culturales. La tierra es la base de la identidad diferenciada de los pueblos indígenas, de su consciencia y espiritualidad. La tierra para los indígenas filipinos encarna sus culturas, tradiciones e instituciones. «*la tierra es su área de culto (religión), su institución de aprendizaje (educación), su dominio (política y gobierno), su mercado (economía), su centro de salud (salud), y su abrigo y defensa (defensa y seguridad)*».(*)

Desde tiempos inmemoriales, los pueblos indígenas han disfrutado y han estado en contacto con sus entornos, practicando el concepto de desarrollo sustentable. En el seno de las comunidades indígenas, los métodos tradicionales de utilización y manejo de los recursos están fuertemente conectados con la conservación. Forzados a sobrevivir en ecosistemas frágiles y diversos durante generaciones, han logrado vivir armoniosamente con la naturaleza y en su vida cotidiana han encarado formas diversas de preservación de la biodiversidad. La vigilancia para la conservación de la tierra y su rica biodiversidad es para los indígenas filipinos un derecho de nacimiento y un deber sagrado.

Examinado en este contexto, el tema de los territorios ancestrales implica el reconocimiento y la protección de una relación entre la tierra (y los recursos que en ellas se encuentran) y el pueblo, expresada como un estilo de vida, y enraizada en generaciones de experiencia comunitaria y un contacto íntimo con el entorno físico.

Por lo tanto no es difícil entender que con el desplazamiento de los pueblos indígenas y el no reconocimiento de sus derechos a sus tierras, sus prácticas de manejo han sido también violadas. Con ésto, el conocimiento indígena se ha fragmentado. La sustitución del conocimiento indígena por sistemas de manejo incompatibles, ya sea mediante la legislación o la fuerza, ha acelerado la degradación de la base natural de recursos. Bajo esta luz, el reconocimiento de los derechos de los pueblos indígenas a sus territorios ancestrales no sólo es una demanda de justicia social, sino también un imperativo para la supervivencia de los sistemas de subsistencia que son la base de la prosperidad nacional y el desarrollo.

Por lo tanto, ya no se pueden plantear argumentos contra la conclusión de que la promulgación de una ley que otorgue un genuino reconocimiento de los derechos de los pueblos indígenas a la propiedad de los

territorios ancestrales y el control de los recursos que allí se encuentran, se ha convertido entonces en un tema pivote para el desarrollo sustentable de las Filipinas, y se ha convertido en el programa de desarrollo más importante de los indígenas filipinos.

El Programa Legislativo de los Indígenas Filipinos: promulgación de la Ley de los Derechos de los Pueblos Indígenas (IPRA)

Desarrollo histórico

El reconocimiento de los derechos de los pueblos indígenas a sus territorios ancestrales, a la autogestión y a la integridad cultural está mandatado en laConstitución de la República de las Filipinas de 1987.

La Constitución establece que el Estado deberá reconocer y promover los derechos de las comunidades culturales indígenas (Sec. 22, Art.II, Declaración de Políticas Estatales); debe proteger los derechos de las comunidades culturales indígenas a sus territorios ancestrales para asegurar su bienestar económico, social y cultural, y debe reconocer la aplicabilidad de las leyes consuetudinarias que gobiernan los derechos de propiedad o las relaciones para la determinación de la propiedad y extensión de los territorios ancestrales, (Sec. 17, Art. XIV, Artes y Cultura); debe alentar la creación de regiones autónomas dentro del marco de la Constitución y la soberanía nacional así como también la integridad tradicional de la República de las Filipinas, (Sec. 15, Art. X, Regiones Autónomas); y debe reconocer, respetar y proteger los derechos de los pueblos indígenas a preservar y desarrollar su cultura, tradiciones e instituciones (Sec. 17, Art. XIV, Artes y Cultura).

Tristemente, hasta la fecha, diez años después de que la Constitución fue ratificada, los derechos de los pueblos indígenas siguen siendo inoperantes dentro del marco legal y la ausencia de una ley para implementar estos mandatos constitucionales se ha convertido en una excusa poco convincente para no hacer efectivos los derechos de los pueblos indígenas.

Durante la década pasada, los 12 millones de indígenas de las Filipinas han manifestado y han trabajado en favor de la aprobación de una Ley que reconozca sus derechos. Su propuesta de ley fue informada, patrocinada e interpelada en el Senado, pero nunca fue promulgada como ley. Mientras tanto, han sido promulgadas leyes que afectan en forma negativa a los territorios ancestrales, casi dentro del término de un año de su propuesta. Para los pueblos indígenas la promulgación de la Ley de los Derechos de los Pueblos Indígenas es una carrera contra el tiempo para salvar lo que resta de sus territorios, los cuales, de unas 12 millones de hectáreas hace una década, se han reducido a sólo unas 3 millones de hectáreas en el presente, la mitad de las cuales están incluso arrendadas por el gobierno a corporaciones privadas y públicas.

En octubre de 1995, la reunión de los pueblos indígenas de «Tribal Filipino Sunday» decidió impulsar aún más su lucha para obtener la promulgación de su ley sobre el territorio ancestral. Colaborando con un consorcio de ONGs, incluyendo a PANLIPI-Centro de Asistencia Legal para los Indígenas Filipinos, la Comisión Episcopal para los Pueblos Indígenas, la Fundación para la Paz Gastón Ortigas, la Coalición Nacional para la Paz, organizaciones populares incluyendo entre muchas otras, NATRIPAL-Nagkakaisang Tribu sa Palawan, LUMAD Mindanao, LAKAS-Lakas ng Pagkakaisa ng Ayta sa Zambales, Misiones Sta. Cruz, Ancianos Supremos Subanen y organizaciones gubernamentales, fundamentalmente la Oficina del Asesor Presidencial sobre el Proceso de Paz, se realizaron siete (7) Consultas Regionales y Nacionales sobre el Programa Legislativo y otros Intereses de los Pueblos Indígenas. En todas estas consultas, los pueblos indígenas afirmaron que cualquier ley sobre el territorio ancestral debía incluir la protección de sus derechos a la integridad cultural, la autodeterminación y la facultatividad. Como resultado, los participantes acordaron la redacción de una nueva ley que encarnará todas sus aspiraciones, tal como fueron articuladas en la serie de consultas. Esta ley debería llamarse no sólo una ley de territorios ancestrales sino una Ley de Derechos de los Pueblos Indígenas.

La ley preliminar resultante es ahora conocida oficialmente como la Ley de los Derechos de los Pueblos Indígenas de 1996 (IPRA), ha sido informada por el Comité Senatorial sobre Pueblos Indígenas, ha sido patrocinada por el Senador Juan Flavier, está ahora en la segunda de tres lecturas, y está siendo actualmente deliberada en el Senado. Después de los debates, la ley pasará para su lectura tercera y final. La ley ha sido también certificada como una medida urgente por el Presidente de la República de las Filipinas, por lo que se asegura a los pueblos indígenas que no habrá un veto ejecutivo de la ley.

La IPRA: Cobertura y contenido

La IPRA es por lejos la ley de territorio ancestral más comprehensiva presentada en la legislatura filipina, en términos de su real cobertura de los intereses de los pueblos indígenas. Al promulgar la ley, las Filipinas efectuarán legalmente el Convenio 169 de la OIT, el convenio relativo a los Pueblos Indígenas en países Independientes y así realiza su contribución más valiosa al Decenio Internacional para los Pueblos Indígenas.

La ley es generalmente considerada como correspondiente a las necesidades y aspiraciones de los pueblos indígenas filipinos pues:

-prevé el total reconocimiento de los derechos de propiedad comunitarios e individuales de los pueblos indígenas sobre sus territorios ancestrales así como también la prerrogativa de controlar, desarrollar y manejar los recursos que allí se encuentran;

-reconoce los sistemas indígenas de justicia, resolución de conflictos, dirección y prácticas de manejo de recursos;

-prohíbe la entrada de actividades comerciales, proyectos del gobierno y del sector privado y colonos a los territorios indígenas sin el libre e informado consentimiento de la comunidad indígena concerniente;

-prevé la autodelimitación por parte de los pueblos indígenas de los territorios ancestrales y la plena participación de la comunidad en la formulación e implementación del plan de manejo de territorios ancestrales;

-decreta el establecimiento de una oficina que implemente programas y proyectos dirigidos hacia la plena realización de los derechos de los pueblos indígenas, con una financiación adecuada y una genuina representación indígena;

-mandata el desarrollo comprehensivo de las comunidades indígenas mediante la provisión de servicios sociales y de ayuda adecuados a estas comunidades;

-reconoce y fortalece el papel de las organizaciones genuinas de los pueblos indígenas en el proceso de desarrollo; y

-reconoce el derecho de los pueblos indígenas a la autodeterminación.

El Programa Legislativo de los Pueblos Indígenas: fortalecimiento de las instituciones para la autodeterminación y el desarrollo participatorio

Al plantear su programa legislativo, los indígenas filipinos no sólo apuntan a la promulgación de la IPRA, sino que al mismo tiempo quieren fortalecer sus instituciones para la autodeterminación y el desarrollo participatorio. Las organizaciones de pueblos indígenas presumen que la participación pro-activa de los pueblos indígenas en el proceso legislativo aumentará la conscientización, la organización, el vínculo y las metas de construcción institucional del movimiento de los pueblos indígenas de las Filipinas.

Concientización

Si la vida es amenazada, ¿qué debe hacer un hombre? Resistir. Esto es lo que debe hacer. De otra manera será deshonrado y eso es peor que la muerte. (Jefe Kalinga, Macliing Dulaq)

La intrusión en territorios ancestrales, la desposesión, la explotación masiva de recursos naturales por la elite de la población migrante, la dominación y la desidia del gobierno, y la marginación aparejada por el no reconocimiento de sus derechos, han provocado la resistencia de los pueblos indígenas. La disidencia ha escalado hasta un punto en que el reconocimiento de los derechos de los pueblos indígenas a sus territorios ancestrales se ha convertido en la clave para asegurar el éxito de cualquier proceso de paz o programa de mitigación de la pobreza por parte del gobierno.

Para los pueblos indígenas, su programa legislativo define los derechos básicos que exigen sean reconocidos e implementados. Esta es su defensa contra acontecimientos fatalmente peligrosos que ponen en peligro su supervivencia como pueblos. Los pueblos indígenas, interactuando y compartiendo en las varias consultas, comprendieron la importancia y la trascendencia de los temas que enfrentan como pueblos, no solamente como comunidades tribales aisladas. Han discernido colectivamente la situación y han proclamado su solución en unidad.

La vigilancia, determinación y perseverancia de los pueblos indígenas en la procuración del programa legislativo se desprenden del hecho que fueron ellos mismos quienes han debatido, definido y articulado el programa. **No es el programa de nadie más que ellos**. Es su grito de lucha.

Organización y fortalecimiento

La prosecución del programa legislativo ha precipitado un despertar cultural y político de los indígenas filipinos y ha dado lugar al surgimiento de organizaciones y alianzas de pueblos indígenas.

Comprendiendo que los intereses terratenientes y de las grandes empresas bien representados en ambas cámaras de la legislatura filipina tratarán de hacer todo el esfuerzo posible para diluir las características progresistas de la IPRA, las organizaciones de pueblos indígenas han movilizado a sus miembros para colmar las galerías de ambas cámaras del congreso durante las audiencias y deliberaciones sobre la ley, en prevención de tal eventualidad. Han organizados equipos para realizar trabajos de «lobby» con los senadores y representantes del congreso. Han firmado declaraciones de apoyo y han procurado el apoyo de su causa por parte de ONGs locales, la Iglesia, y las Unidades de Gestión Local. Entre los resultados del proceso de «lobby» se encuentran logros positivos tendientes a la organización y consolidación de sus fuerzas para aprovecharse de las oportunidades.

Redes de trabajo y construcción organizativa

La creación de una base multisectorial para los derechos de los pueblos indígenas que sirva como fuente del apoyo popular para la promoción de los intereses de los pueblos indígenas en todas las áreas de su lucha legítima, es uno de los logros realizados en la búsqueda de la promulgación de la IPRA.

El Grupo de Trabajo Técnico del Comité del Senado sobre Pueblos Indígenas es el mejor ejemplo de los esfuerzos colaborativos entre los pueblos indígenas, las ONGs y las organizaciones gubernamentales. Estas colaboraciones están también expresadas en muchas formas nuevas a nivel regional y local. Los programas de acción compartidos, las asambleas consultivas, y el acceso a los medios de difusión ilustran la convergencia o unidad de los grupos en solidaridad con los pueblos indígenas.

Más allá del Programa Legislativo

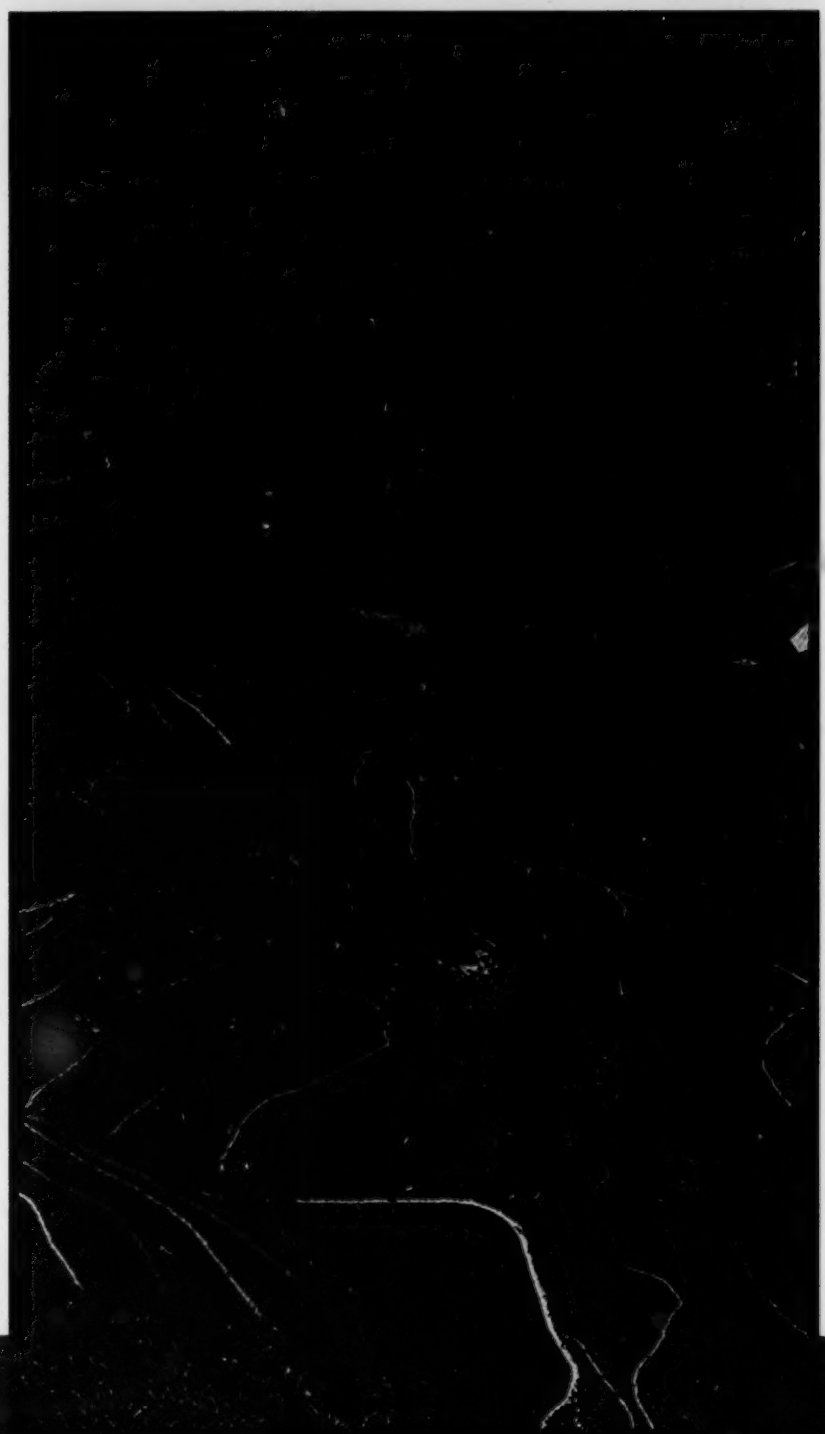
En ausencia de la IPRA, los pueblos indígenas se han movilizado y han tomado ac-

ción solidaria para presionar por problemas acuciantes tales como:

1. Procurar una moratoria sobre la aprobación de las aplicaciones pendientes del Acuerdo sobre Asistencia Técnica y Financiera (FTAA) bajo el Código Minero de 1995 y de la emisión de permisos bajo los diversos programas forestales del Departamento del Medio Ambiente y Recursos Naturales (DENR) que enajenan la tierra, bosques, aguas y otros patrimonios comunitarios y ancestrales de los pueblos indígenas.
2. Apoyar la acción de los Pueblos de la Cordillera por una genuina autonomía.
3. Asegurar la participación de los pueblos indígenas en la formulación, implementación y evaluación de otros planes, políticas y programas tales como los proyectos de energía y aguas.
4. Asegurar que una persona indígena que pueda genuinamente promover los intereses de los pueblos indígenas sea nombrada como su representante sectorial en el Congreso.
5. Salvaguardar el conocimiento indígena y los derechos de propiedad intelectual.
6. Acelerar la emisión de CADCs, la identificación y delimitación de los territorios ancestrales y la demarcación de límites de los mismos.
7. Realizar programas de capacitación para las organizaciones y redes de trabajo de los pueblos indígenas.
8. Organizar en forma continua a los pueblos indígenas hacia la defensa y desarrollo de los territorios tradicionales.

Estas acciones asegurarán que las instituciones para el desarrollo participatorio y la autodeterminación sean establecidas y fortalecidas.

** Extraído del Discurso de Patrocinamiento de la Ley de los Derechos de los Pueblos Indígenas por el Senador filipino, Hon. Juan Flavier.* ❑



Filipinas - Fotos: Christian Erni

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EL CONCEPTO DE "PUEBLOS INDIGENAS" EN ASIA

puntos de discusión sobre legislación internacional

por Benedict Kingsbury

El significado del término «pueblos indígenas» como concepto de uso internacional se está convirtiendo en un tema de creciente importancia. Los interesados han pedido que este documento discuta los tópicos de legislación internacional concernientes al significado de «pueblos indígenas» con particular énfasis en la actual controversia en las Naciones Unidas sobre la aplicabilidad del concepto de «pueblos indígenas» en varias partes de Asia.

Ya que el foco de este documento se orienta a las prácticas de las Naciones Unidas y otras instituciones internacionales gubernamentales, va necesariamente a concentrarse más en clarificar y responder a las posiciones asumidas por los gobiernos e instituciones interestatales que en los puntos de vista adoptados por otras agrupaciones.

Muchas de las notas de este trabajo presentan la posición de grupos asiáticos participantes en el debate internacional. Este documento se ocupa de los debates provenientes del continente asiático. Sin embargo casos similares, frecuentemente con variantes distintivas o elementos especiales, se presentan en Africa y otras partes del mundo.

El debate sobre la aplicación en Asia del concepto de «Pueblos Indígenas»

Algunos grupos particulares consideran en grado creciente la movilización e identificación de sí mismos como pueblos indígenas como una agradable forma de autoexpresión y una potencial y atractiva estrategia ante los foros nacionales e internacionales. La existencia y el reconocimiento internacional de esta categoría provee una cierta legitimidad, quizás hasta un lenguaje, para el logro de aspiraciones y solución de conflictos. Grupos no estatales de Asia han participado en actividades internacionales organizadas por o en relación con pueblos indígenas y han sido establecidas varias organizaciones incluyendo el Concilio de Pueblos Indígenas del Asia-Pacífico y el Pacto Asiático de Pueblos Indígenas.

La esencia de la controversia en las Naciones Unidas se refleja en una declaración hecha en 1991 ante el Grupo de Trabajo de las Naciones Unidas en representación de los miembros del Frente Popular de Papúa Occidental, la Unión Nacional Karen, la Organización Jumma en Europa, el Concilio Hindú de Pueblos Indígenas y Tribales, la Alianza de Aborígenes de Taiwán, la Federación Nacional de los Pueblos Indígenas de las Filipinas (KAMP), Lumad-

Mindanao, la Alianza de los Pueblos de la Cordillera, la Asociación Ainu de Hokkaido, el Pacto Asiático de Pueblos Indígenas, el Movimiento del Pueblo Naga para los Derechos humanos, la Homeland Mission 1950 de las Molucas del Sur y el Pueblo Hmong:

Antes que nada queremos llamar vuestra atención sobre la negativa de ciertos gobiernos asiáticos a aceptar la existencia de pueblos indígenas en nuestra parte del mundo. Esta posición representa un importante obstáculo para la participación de muchos pueblos indígenas de nuestra región en las deliberaciones del Grupo de Trabajo e intenta además privar a los pueblos indígenas, tribales y aborígenes de Asia de los beneficios de la Declaración. Solicitamos urgentemente que los pueblos a los que se les niega el derecho a la autogestión y que son denominados tribales y/o aborígenes en nuestra región sean reconocidos, para los propósitos de esta Declaración y en acordancia con la práctica de la OIT, como equivalentes a pueblos indígenas. (IWGIA 1991:40).

La categoría de «pueblos indígenas» parece ser inherente a muchos grupos y en muchos contextos sociales.

La carencia o la negación de algunos gobiernos y otras instancias en reconocer y tomar en cuenta las diferenciadas historias, necesidades, debilidades y aspiraciones de los pueblos indígenas han sido desde hace largo tiempo causa de inmensa destrucción, deprivación, miseria y muerte de un gran número de personas.

En algunos casos este no-reconocimiento es parte de una deliberada estrategia de negación para facilitar la ruptura de claras normas legales nacionales e internacionales. También puede estar concebida para aislar a los diversos grupos del apoyo (no siempre benigno), la identificación y la solidaridad internacional cada vez más asociados con los «pueblos indígenas».

Algunos estados aplican internacionalmente la política de negación a la vez que sus organismos subordinados, los cuales operan mayormente a nivel nacional, reconocen las identidades diferenciadas de los diversos grupos indígenas. Por otra parte, el no-reconocimiento de un grupo como «pueblo indígena» no está necesariamente motivado por malevolencia, particularmente cuando otras bases de identidad social y reconocimiento de culturas, historias y necesidades distintivas son evidentes y bien establecidas en la práctica. El impulso para el desarrollo internacional del concepto de «pueblos indígenas» ha provenido, desde los años setenta, en su mayor parte, de las regiones de asentamiento europeo: América, Australasia y la región nórdica.

Una de las ideas originales aparece en el borrador de la Declaración Interamericana sobre los Derechos de los Pueblos Indígenas de 1995: «Pueblos indígenas son aquellos que incorporan una continuidad histórica con las sociedades que existían con anterioridad a la conquista y asentamiento de sus territorios por parte de los europeos» (Comisión Interamericana para los Derechos Humanos 1995). Sin embargo en el mismo borrador se reconoce que, mismo en América, este intento de definición no cubre el total del espectro de los pueblos indígenas, por lo que ofrece alternativas adicionales. Las agencias internacionales globales no han limitado el concepto de «pueblos indígenas» a las áreas de asentamiento europeo. Una definición tentativa de las Naciones Unidas se refiere, por ejemplo, a los pueblos indígenas como poseedores de «una continuidad histórica con sociedades preinvasivas y precoloniales que se desarrollaron en sus territorios» (Martínez-Cobo 1986: Capítulo 22, §379).

La OIT ha modificado el requisito histórico y ampliado su definición legal con una categoría adicional de «pueblos tribales». El Banco Mundial ha dejado totalmente de lado los criterios basados en la continuidad histórica y el colonialismo, adoptando en vez una visión funcional de los «pueblos indígenas» como «grupos con una identidad social y cultural diferente a la de la sociedad dominante, lo que los hace vulnerables a ser perjudicados» (Banco Mundial 1991:19). Mientras que la OIT y el Banco Mundial, agencias funcionales especializadas de las Naciones Unidas, han sido capaces de adoptar estas progresistas propuestas sin una incontrolable oposición por parte de los estados nacionales, la cuestión irresuelta del método a adoptar en las Naciones Unidas es de mayor importancia y por lo tanto más contenciosa. Algunos estados asiáticos han argumentado que el concepto de «pueblos indígenas» está relacionado con el colonialismo europeo y que no tiene sentido coherente, resonancia social o aplicación fuera de ese contexto a no ser que se utilicen las falsas formas promovidas desde el exterior. El mantener el estricto requisito de continuidad histórica con sociedades preinvasivas y precoloniales, requerimiento que debe al menos parte de su inspiración a percepciones y experiencias en áreas de asentamiento europeo, va posiblemente a restringir y complicar, aunque sin excluir totalmente, la aplicabilidad del concepto de «pueblos indígenas» en otras partes del mundo. El caso de la expansión del concepto internacional de «pueblos indígenas» fuera de las áreas de colonialismo europeo en las cuales se desarrolló inicialmente, crea un espacio para la polémica política e interrogantes legales sobre el carácter y el desarrollo óptimo de este concepto legal internacional.

Antecedentes: legislación internacional general relativa a los «pueblos indígenas»

Diversas instituciones internacionales han promulgado estrategias o procedimientos normativos que se refieren específicamente a la categoría «pueblos indígenas». Actualmente el mayor interés político se centra en los esfuerzos de las Naciones Unidas por finalizar y adoptar una Propuesta de Declaración de los Derechos de los Pueblos Indígenas. La propuesta actual fue preparada entre 1982 y 1993, con considerable participación de los pueblos indígenas, por el Grupo de Trabajo de las Naciones Unidas para los Pueblos Indígenas (cuyos miembros actúan independientemente de los intereses gubernamentales). Esta propuesta se encuentra actualmente ante el Grupo de Trabajo Intercesional de las Naciones Unidas para los Derechos Humanos (cuyos miembros son representantes gubernamentales) donde los intereses y preocupaciones de los gobiernos tienen preponderancia. Sin embargo también aquí se le permite a un apreciable número de representantes de pueblos indígenas y organizaciones no gubernamentales (ONG) un cierto grado de participación. Esta propuesta no contiene una definición de «pueblos indígenas» a pesar de que muchos gobiernos y pueblos indígenas presionan para la adopción de una definición. La presidenta informante del Grupo de Trabajo de las Naciones Unidas para las Poblaciones Indígenas, Erica Irene Daes, ha sugerido que la solidaridad y experiencia surgidas de las reuniones entre los pueblos indígenas, los gobiernos y los representantes del Grupo de Trabajo celebradas desde 1982, pueden proveer una plataforma sobre la cual construir una aceptable definición.

La Organización Internacional del Trabajo

El único acuerdo intergubernamental obligatorio referente a los pueblos indígenas ha sido adoptado por la Organización In-

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ternacional del Trabajo. El Convenio 107 de la OIT del año 1957 continúa en vigencia para Bangladesh, India, Paquistán y más de una docena de estados no-asiáticos. El Convenio 169 de la OIT del año 1989 debe supuestamente suplantar al Convenio 107, pero hasta la fecha ha sido ratificado únicamente por ocho gobiernos no-asiáticos. Estos convenios incluyen importantes condiciones relativas a los derechos territoriales, reasentamientos, proyectos de desarrollo, cuestiones culturales y otros temas que afectan a los pueblos indígenas y tribales. El Convenio 169 contiene una amplia e importante cláusula definitoria, el articulo 1 (1), el cual estipula que el Convenio es aplicable a:

A) Pueblos tribales en países independientes cuyas condiciones sociales, culturales y económicas los distinguen de los otros sectores de la comunidad nacional y cuya situación está regulada total o parcialmente por sus propias costumbres o tradiciones o por leyes o reglamentaciones especiales.

B) Pueblos en países independientes que son considerados como indígenas debido a su descendencia de las poblaciones que habitaban el país, o la zona geográfica a la que el país pertenece, al momento de la conquista, colonización o establecimiento de las actuales fronteras nacionales y que, independientemente de su situación legal, mantienen la totalidad o parte de sus propias instituciones sociales, económicas, culturales y políticas.

El Banco Mundial y el Banco Asiático de Desarrollo

La política del Banco Mundial impone requisitos referentes a la consulta, participación informada, preparación de un «plan de desarrollo para los pueblos indígenas, y otras medidas especiales a ciertos proyectos que afectan a pueblos indígenas. La Directiva Operacioñal promulgada en 1991 (y sujeta a una futura revisión debido a la adopción de nuevos métodos administrativos en el Banco) dice:

Los términos «pueblos indígenas», «minorías étnicas indígenas», «grupos tribales» y «tribus registradas» describen grupos sociales con una identidad social y cultural distinta a la de la sociedad dominante, lo que los hace vulnerables a ser perjudicados en el proceso de desarrollo. Para los propósitos de esta directiva,' el término a ser usado para referirse a estos grupos será «pueblos indígenas»(Banco Mundial 1991:19).

La razón para la elección del término «pueblos indígenas» no es dada, pero seguramente refleja la generalización de su uso internacional; particularmente en las Naciones Unidas y la OIT. La Directiva Operacional, refiriéndose a los grupos a los que esta política es aplicable, dice:

«Ninguna definición puede abarcar la diversidad de los pueblos indígenas debido a los variados y cambiantes contextos en los que éstos se encuentran. Los pueblos indígenas ocupan normalmente los segmentos más pobres de la población. Se ocupan de actividades económicas que van desde la agricultura seminómada dentro o en las cercanías de las selvas, al trabajo asalariado así también como operaciones mercantiles en pequeña escala. Los pueblos indígenas pueden ser identificados en áreas geográficas particulares por la presencia, en grado variable, de las siguientes características:

A) Un gran apego a sus territorios ancestrales y a los recursos naturales de estas áreas.

B) Su autoidentificación y su identificación por parte de terceros como miembros de un grupo cultural diferenciado.

C) Una lengua indígena, usualmente diferente al idioma oficial.

D) La presencia de instituciones políticas y sociales tradicionales.

E) Sus actividades productivas están primariamente orientadas a la subsistencia.

Los jefes de proyectos deben hacer uso de su sano juicio al determinar las poblaciones a las cuales esta directiva es aplicable y deberían utilizar expertos especializados en antropología y sociología a lo largo del proyecto»(Banco Mundial 1991:19).

El Banco Asiático de Desarrollo está considerando, en base a experiencias propias y del Banco Mundial, la adopción de una política similar. Pero a pesar de que ambos utilizan eltérmino «pueblos indígenas» de forma amplia y comprensiva existen significativas diferencias.

El Banco Mundial hace notar, por ejemplo, que la clasificación de los grupos por parte de los estados provee sólo una «base preliminar» para la identificación de los pueblos indígenas a los cuales la política del Banco es aplicable. En cambio el documento consultivo del año 1994 del Banco Asiático de Desarrollo omite el elemento «preliminar», lo que presagia una gran (y potencialmente excesiva) deferencia ante los gobiernos nacionales. El Convenio 169 de la OIT representa una posición diferente en la legislación internacional, sosteniendo en el articulo 1 (1)(b) que los grupos que satisfagan los criterios prescritos deben ser considerados como pueblos indígenas según el Convenio «independientemente de su situación legal (frente a la legislación nacional)»(OIT 1989).

Otros instrumentos internacionales

Una creciente cantidad de tratados y otros instrumentos internacionales contienen significantes condiciones con respecto a los pueblos indígenas, pero generalmente no definen el término.

Por ejemplo condiciones especiales referentes a los pueblos indígenas aparecen en el Convenio de las Naciones Unidas para los Derechos de los Niños de 1989, el Convenio para la Biodiversidad de 1992 y en numerosos textos adoptados por las conferencias de las Naciones Unidas incluyendo la Agenda 21 (1992) y la Declaración Final de la Conferencia de Viena sobre Derechos Humanos (1993). Las Naciones Unidas han proclamado un Decenio Internacional para las Poblaciones Indígenas del Mundo. La Comisión Interamericana para los Derechos Humanos propuso en 1995 una declaración preliminar sobre los derechos de los pueblos indígenas, pero a pesar de largas deliberaciones no pudo acordar una definición en parte debido a desacuerdos referentes a ciertas comunidades libres creadas por personas involuntariamente transportadas de Africa a América por el comercio de esclavos.

La Propuesta de Declaración de las Naciones Unidas

La referencia en tantos instrumentos a los «pueblos indígenas» parece sugerir que si un grupo es considerado como tal posee por lo tanto numerosos derechos gozados específicamente por estos pueblos o por miembros de los tales. Esta es la posición aparentemente representada en la actual Propuesta de Declaración de las Naciones Unidas de los Derechos de los Pueblos Indígenas. Esta declaración sostiene por ejemplo: «Los pueblos Indígenas tienen derecho a la autodeterminación» (Art.3); «los pueblos indígenas tienen el derecho de mantener y fortalecer sus distintivas características políticas, económicas, sociales y culturales así también como sus sistemas legales» (Art.4); «los pueblos indígenas tie-

nen el derecho individual y colectivo a no ser objeto de etnocidio y/o genocidio cultural» (Art.7); «los pueblos indígenas no deben ser removidos forzosamente de sus zonas o territorios» (Art.10); «los pueblos indígenas tienen el derecho a la propiedad, desarrollo, control y uso de las zonas y territorios ... que tradicionalmente han poseído o de otra forma ocupado o usufructuado» (Art.26). Esta propuesta reconoce, pero no resuelve, la problemática del potencial conflicto entre los derechos de los pueblos indígenas y los derechos o intereses de otros y asevera, en forma inusual para un documento de las Naciones Unidas sobre derechos Humanos, muchos derechos en formas por las cuales sus poseedores son colectividades no estatales y no simples individuos. Muchas de las estipulaciones en la Propuesta de Declaración tienen como función primaria el aseverar lo que judicialmente no debe ser puesto en duda: que las normas internacionales existentes son aplicables a los pueblos indígenas y que circunstancias especiales de los pueblos indígenas pueden dar un significado especial a principios normativos como ser la no discriminación y la protección de la propiedad.

Muchas demandas hechas por grupos indígenas o por sus miembros no se basan en su condición de «pueblos indígenas» debido al modo en que la legislación internacional funciona actualmente. Por ejemplo la esclavitud, desposesión discriminatoria, brutalidad militar, genocidio y otras atrocidades están prohibidas por la legislación general internacional sobre derechos humanos; siendo los relevantes órganos internacionales de supervisión los que frecuentemente se ocupan de las quejas de los pueblos indígenas como variantes de estos términos comunes. En la legislación internacional, las demandas hechas por grupos no estatales pueden utilizar al menos cinco importantes campos de argumentación (muchas demandas invocan varios simultáneamente): demandas sobre derechos humanos, demandas sobre los derechos de las minorías, demandas sobre autodeterminación, demandas sobre la reivindicación de independencia histórica y demandas basadas en características particulares de los pueblos indígenas. Historias de desposesión y abusos, actual vulnerabilidad y aspiraciones así también como cuestiones específicas concernientes a titularidades históricas, promesas realizadas en tratados, etc. Tienen todas relevancia con respecto a la legislación internacional aplicable a los pueblos indígenas.

La Propuesta de Declaración de las Naciones Unidas, vista en su totalidad y con base en la legislación internacional existente, no establece en su presente estado de elaboración a los «pueblos indígenas» como una categoría que goza de una vasta gama de derechos exclusivos. Si este fuera el caso la cuestión de una definición sería absolutamente fundamental para los alcances y viabilidad de esta Declaración. Los efectos principales del proceso y del texto en sí mismo son más bien el proponer o desarrollar una serie de principios básicos de fundamental importancia, el refutar y desaprobar cierto tipo de argumentos utilizados contra las demandas de los pueblos indígenas, el legitimar las demandas legales y políticas de los pueblos indígenas y el especificar el significado de bien establecidas normas internacionales en contextos especiales que involucran a pueblos indígenas.

Definiendo «pueblos indígenas» en las Naciones Unidas

Ni el Grupo de Trabajo para las Poblaciones Indígenas ni la Comisión para los Derechos Humanos de las Naciones Unidas han podido hasta el momento adoptar una definición del término «pueblos indígenas», a pesar de la creciente presión para que por lo menos formulen, a falta de una definición precisa, un texto indicativo.

El logro de consenso sobre una definición se ha demostrado tan problemático que algunos gobiernos y pueblos indígenas comienzan a dudar la deseabilidad de la adopción de una definición.

Dos grandes puntos de preocupación política, vehementemente expuestos por varios gobiernos, tienen gran significancia en los debates. Estos se relacionan con el uso del término «pueblos» y con la noción de «indígenas».

«Pueblos»

El uso del término «pueblos» es un punto sensible para muchos estados, debido principalmente a que es usado desde hace tiempo para designar a una categoría de grupos no estatales poseedores de derechos legales internacionales, principalmente el derecho de «todos los pueblos» a la autodeterminación.

Es por esto que algunos estados son reticentes al uso del término «pueblos indígenas» a nivel internacional a pesar de que, como en el caso de Canadá, términos como «pueblo» y «nación» son asiduamente empleados en el debate político nacional.

La Asamblea General de las Naciones Unidas ha tratado recientemente de resolver muy diplomáticamente la cuestión de los derechos colectivos, principalmente el de autodeterminación, refiriéndose a «poblaciones indígenas» en vez de a «pueblos indígenas» (este pequeño cambio de terminología implica que las «poblaciones indígenas» no son reconocidas como «pueblos». *Nota del Traductor*) como por ejemplo en la proclamación del Decenio de las Poblaciones Indígenas del Mundo.

Un método diferente fue utilizado en el Convenio 169 de la OIT. Si bien se refiere expresamente a «pueblos indígenas y tribales» estipula a su vez en su artículo 1 (3) que: «Del uso del término 'pueblos' en este Convenio no deben deducirse connotaciones con respecto a su significación ante la legislación internacional» (OIT 1989). Esta obsesión con la terminología es, desde punto de vista de la legislación internacional, un malentendido: la posesión de derechos y la aplicación concreta de los mismos son determinadas por un substancial análisis legal y no por la terminología. Además, la lógica del principio de autodeterminación va mas allá de la cuestión de la independencia nacional extendiéndose a opciones políticas y culturales aplicables dentro del marco de los estados establecidos. Existe sin embargo un fuerte apoyo por parte de los gobiernos a la adopción de una cláusula similar a la del artículo 1 (3) de la OIT en la Propuesta de Declaración de las Naciones Unidas a pesar de la vehemente oposición de los representantes de muchos grupos indígenas.

«Pueblos Indígenas»

La política de las Naciones Unidas con respecto al significado de «pueblos indígenas» se basa en una definición de trabajo tentativa preparada bajo los auspicios del informador especial Martínez-Cobo:

«Comunidades, pueblos y naciones indígenas son aquellas que, teniendo una continuidad histórica con las sociedades preinvasivas y precoloniales que se desarrollaron en sus territorios, se consideran a sí mismas distintas a otros sectores de las sociedades que prevalecen actualmente en estos territorios o partes de los mismos. Ocupan sectores no dominantes de la escala social y están determinados a conservar, desarrollar y trasmitir a las generaciones futuras sus territorios ancestrales y su identidad étnica como base de su continuidad como pueblos y en acordancia con sus

tradiciones culturales, instituciones sociales y sistemas legales.

Esta continuidad histórica puede consistir en la presencia hasta la actualidad de uno o más de los siguientes factores:

A) Ocupación de territorios ancestrales o por lo menos parte de ellos.

B) Linaje con los ocupantes originales de estos territorios.

C) Cultura en general o en manifestaciones específicas, por ejemplo religión, forma de vida tribal, ser miembros de una comunidad indígena, vestimenta, modos de subsistencia, estilo de vida, etc.

D) Lenguaje (así sea utilizado como lengua madre, única, principal, preferida, general, normal o como medio habitual de comunicación en el hogar o en la familia).

E) Residencia en ciertas partes del país o en ciertas regiones del mundo.

F) Otros factores relevantes.» (Martínez-Cobo 1986: Capítulo 22, §379).

Esta definición tentativa nombra cinco de los muchos criterios definitorios que se utilizan nacional e internacionalmente: autoidentificación, continuidad histórica con sociedades preinvasivas y precoloniales, no dominancia social, territorios ancestrales e identidad étnica. Dos de ellos son de especial importancia en los actuales debates concernientes al concepto de «pueblos indígenas» en Asia: la autoidentificación y la continuidad histórica.

Autoidentificación

Los pueblos indígenas y los instrumentos legales internacionales le han dado un gran énfasis a la autoidentificación. Esto es parte de la nueva política de los instrumentos internacionales que abandona el tratamiento de los pueblos indígenas como víctimas merecedoras de una protección benefactora e intenta en cambio lograr la aceptación de las implicaciones de la ideología de la autodeterminación. La autoidentificación (o autodefinición) consiste de varios puntos.

En primer lugar, los gobiernos tienden cada vez más a aceptar el derecho de cada pueblo indígena a ser reconocido como un grupo diferenciado, definido en términos de su autoconcepción en relación con otros grupos, a pesar de que las legislaciones nacionales son muy variables en estos casos y de que los gobiernos frecuentemente toman parte activa ante la eventualidad de controversias de identidad entre o dentro de los grupos. La aplicabilidad de las normas internacionales relevantes no es sólo determinada por la autoidentificación (aunque su reconocimiento es muy importante) ya que cada definición internacional también incluye criterios objetivos. Este método es evidente en el Convenio 169 de la OIT.

Los criterios objetivos son establecidos en el artículo 1(1) a la vez que el artículo 1(2) sostiene que *«la autoidentificación como pueblos indígenas o tribales debe ser considerada como un criterio fundamental para la determinación de los grupos a los cuales se aplican los criterios de esta convención»*. Existe una divergencia entre los gobiernos, como es el caso de la República Popular China, que desea que las definiciones a utilizar por los instrumentos internacionales empleen criterios objetivos y los grupos indígenas que acentúan la autoidentificación. Sin embargo estas posiciones son, al menos del punto de vista analítico, reconciliables mediante la combinación de sus elementos subjetivos y objetivos compatibles.

En segundo lugar, la autoidentificación puede ser interpretada como un instrumento capaz de determinar, a nivel intergrupal o internacional y a través de reglas generales o de decisiones específicas, cuáles grupos son pueblos indígenas. La declaración Preliminar de las Naciones Unidas apoya parcialmente esta posición. Algunos grupos representantes de pueblos indígenas están tratando, sin resultados hasta el momento, de lograr la exclusión de ciertos grupos (por ejemplo los *Reheboth Basters*, un grupo de ascendencia europea que habitan en Namibia) del Grupo de Trabajo de las Naciones Unidas para las Poblaciones Indígenas. Es improbable que los gobiernos acepten actualmente la noción de que los pueblos indígenas están capacitados para tomar semejantes decisiones a nivel internacional aunque ciertamente poseen cierta influencia en los procedimientos de las Naciones Unidas y de otras organizaciones.

En tercer lugar, la autoidentificación puede implicar el derecho del grupo a utilizar y desarrollar reglas de afiliación individual, creando difíciles problemáticas sobre su capacidad de incluir o excluir a ciertos individuos en contra de sus deseos o autoidentificación. Los procedimientos utilizados por los gobiernos en estos casos son varios, sin embargo es generalmente aceptado que la afiliación a un grupo es una cuestión en la cual la legislación o la administración estatal deben aceptar los deseos de los individuos o las decisiones de los grupos en cuestión. Puede concluirse que las reglas sobre afiliación o pertenencia deben ser compatibles con los derechos humanos internacionalmente reconocidos.

Continuidad histórica Posiciones asumidas por los gobiernos de los estados asiáticos

La mayor controversia en las Naciones Unidas es el propuesto requisito de continuidad histórica con sociedades preinvasivas o precoloniales establecidas en el territorio.

Un creciente número de estados asiáticos adoptan la posición de que el concepto de «pueblos indígenas» no es aplicable dentro de sus fronteras, a medida que las propuestas ante las Naciones Unidas sobre una Declaración Preliminar sobre los Derechos de los Pueblos Indígenas abandonan el estadio especulativo y futurístico y se convierten en concretas e inminentes.

Desde el comienzo, la India ha sostenido esta posición ante el Grupo de Trabajo de las Naciones Unidas para las Poblaciones Indígenas. Bangladesh y Birmania/Myanmar comparten esta política. La República Popular China ha comenzado recientemente a hacer pública su crítica a la aplicabilidad del concepto de «pueblos indígenas» en su territorio. Sin embargo, varios estados asiáticos incluyendo Filipinas, Japón, Rusia y otros, no se han opuesto a la posible aplicabilidad del concepto en sus respectivos territorios.

Las razones de esta oposición por parte de algunos estados asiáticos no han sido totalmente definidas, pero tres tipos de argumentos utilizados son: definicionales, funcionales y prácticos. La argumentación definicional es léxica, dependiendo de la visión de los «indígenas» como ocupantes previos, y condicional, asociando a los «pueblos indígenas» con los efectos dañinos del colonialismo europeo. La argumentación práctica se basa en la posibilidad de error o la imposibilidad de tratar de identificar a los habitantes originales de países y/o regiones con una tan larga y complicada historia de flujos, movimientos y migraciones. La argumentación funcional sostiene que el reconocimiento de los derechos de ciertos grupos en base a la ocupación previa provocaría y legitimaría la movilización y las demandas de un sinnúmero de grupos, lo que socavaría vitales intereses de los estados.

1) Argumentación definicional:

Los puntos de vista y los métodos para la interpretación del significado del concepto «pueblos indígenas» por parte del gobierno de la República Popular China están

ejemplificados en los comentarios realizados en 1995 referentes al análisis de la Declaración Preliminar realizado por la Comisión Intersesional de las Naciones Unidas para los Derechos Humanos:

El gobierno chino considera que la problemática de los pueblos indígenas es el producto de la reciente política colonial de las naciones europeas aplicada en diversaspartes del mundo. Muchos pueblos indígenas han sido despojados de sus hogares y territorios ancestrales, brutalmente oprimidos, explotados, asesinados y en algunos casos deliberadamente exterminados debido a esta política.

Muchos pueblos indígenas sufren hasta la fecha la discriminación y su situación de inferioridad les impide el ejercicio total e igualitario de los derechos sociales, económicos, culturales, civiles y políticos gozados por el resto de los ciudadanos de los países en los cuales habitan.... Al igual que las poblaciones de la mayor parte de los países asiáticos, las varias nacionalidades de China han habitado durante cones el territorio chino. Si bien la cuestión de los «pueblos indígenas» no existe en la República Popular, el gobierno y el pueblo de China simpatizan plenamente con éstos debido a sus sufrimientos y dificultades históricas. China considera que es absolutamente esencial el formular un instrumento internacional para proteger sus derechos e intereses.... Las calamidades históricas sufridas por los pueblos indígenas los ubican en una categoría aparte de las minorías nacionales y grupos étnicos. Es por ello que la Declaración Preliminar debe definir claramente el término «pueblos indígenas» para garantizar que los derechos especiales que ella establece sean apropiadamente aplicados a genuinas comunidades de pueblos indígenas y no sean distorsionados, arbitrariamente incrementados o confundidos. El Centro de las Naciones Unidas para los Derechos Humanos categorizó presuntuosamente, en su material preparado para la Conferencia Mundial sobre los Derechos Humanos, a ordinarias minorías nacionales de muchos países asiáticos como «pueblos indígenas» y se rehúsa, a pesar de las explicaciones colectivas e individuales de estos países, a rectificar su error. Este ejemplo demuestra ampliamente la necesidad de una definición válida del término «pueblos indígenas».

La posición adoptada por China es que el concepto de «pueblos indígenas» está

inextricablemente conectado con el colonialismo europeo y es producto del mismo. Esta opinión es promovida por la adopción parcial por parte de la Liga de las Naciones y extensiva por parte de la Asamblea General de las Naciones Unidas de la costumbre generalizada de las potencias coloniales europeas de considerar a la totalidad de la población no europea o no inmigrante de sus colonias como «pueblos indígenas». En este respecto los «pueblos indígenas» son aquellos que continúan siendo víctimas de las miserias causadas por el colonialismo europeo, en cierto modo los perdedores en el proceso de creación de estados por parte de los europeos fuera de su continente. China apoya, por lo tanto, en términos generales una definición que declare que los pueblos indígenas «habitaban en sus territorios antes que los colonos llegasen de otras partes... descendientes... de aquellos que habitaban un país o región geográfica al momento del arribo de pueblos cultural y étnicamente diversos, los cuales se volvieron dominantes mediante la conquista, ocupación, colonización u otros medios. No se hace referencia directa al concepto de «colonialismo de agua salada» usado por el grupo de las 77 naciones en vías de desarrollo que intenta distinguir las prácticas del colonialismo europeo fuera de Europa de las prácticas de grupos no europeos que suelen compartir ciertas características con éstos, pero la posición china indica claramente que las «calamidades históricas sufridas por los pueblos indígenas que los ubican en una categoría aparte» son las calamidades del colonialismo de agua salada.

India y Myanmar presentan argumentos semejantes acentuando que los pueblos indígenas son descendientes de los habitantes originales que han sufrido una conquista o invasión del exterior.

Esta definición histórica promueve el implícito punto de vista de varios gobiernos asiáticos de que el intento de imponerles el concepto de «pueblos indígenas» es una expresión de neocolonialismo. El concepto de «pueblos indígenas», relevante y necesario en los países occidentales (incluyendo América Latina) por las persistentes consecuencias humanas de la incursión europea y colonización mayoritaria, la que además ha dado su actual forma y carácter a estos estados, es ahora aplicado, por iniciativa de los estados occidentales, a las naciones asiáticas que evitaron el colonialismo europeo o se deshicieron de sus efectos más directos durante la lucha anti-colonial.

Argumentación práctica

La noción de los pueblos indígenas como aquellos que llegaron primero (o al menos antes que los actuales pueblos dominantes) fue rebatida por representantes del gobierno de la India, quienes argumentaron que tal concepto es inaplicable en la India ya que siglos de migraciones, absorciones y diferenciación imposibilitan la determinación de los habitantes originales. Esto es similar a la argumentación del gobierno de la República Popular que postula que todas las nacionalidades de China han vivido allí durante eones.

El representante de la India ante el Grupo de Trabajo de las Naciones Unidas para los Pueblos Indígenas expuso en 1991 que la mayoría de las tribus de la India comparten características étnicas, raciales y lingüísticas con otros pueblos del país y que unos 300 a 400 millones de individuos son de una u otra forma diversos al resto de los habitantes de la India. Está demostrado, a pesar de la indudable existencia de difíciles casos marginales, que es posible elaborar de manera práctica una lista detallada de tribus registradas mediante las reglas fijadas por la constitución de la India. Esta categoría constitucional provee un práctico punto de partida para la identificación de los grupos a los cuales las políticas de las agencias internacionales relacionadas con los «pueblos indígenas» son aplicables. Esto no pretende minimizar las problemáticas que en muchas áreas pueden ser graves. Sin embargo estas objeciones prácticas parecen indicar una reticencia a la imposición de un concepto foráneo, objeto de una fuerte oposición política.

Argumentación funcional

De la argumentación y posición del gobierno de la India se denota que un profundo escrutinio sobre quienes fueron los originales pobladores de su territorio sería inútil e indeseable por dos razones. En primer lugar se podría dar el caso que algunos grupos merecedores de protección especial fuesen excluidos mientras que otros grupos no necesitados de esta protección fuesen incluídos.

En segundo lugar el reconocimiento de derechos y titularidades especiales basados en la ocupación previa u original podría pro-

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vocar y legitimar reclamos chauvinistas de diversos grupos en todo el territorio de la India, muchos de los cuales si bien muy poderosos a nivel local no son dominantes a nivel nacional.

Ya aparecen demandas sobre prioridad histórica en algunos conflictos «comunales» y también abundan incipientes movimientos chauvinistas como el de Maharashtra.

Esta segunda razón no acostumbra ser explícitamente desarrollada en las declaraciones gubernamentales, quizás debido a sus graves implicancias, pero parece haber animado el perdurable interés del gobierno hindú en mantener el concepto de «pueblos indígenas» a una prudencial distancia.

Implicaciones tácticas

La oposición de varias de las mayores naciones asiáticas a la aplicación del concepto de «pueblos indígenas» en sus territorios influye obviamente en la política de las Naciones Unidas con respecto a las cuestiones relacionadas con estos pueblos.

Luego de haber demandado una definición simple, científica, objetiva y práctica de los pueblos indígenas, claramente entendible como inaplicable a los grupos que habitan dentro de su territorio, el gobierno chino remarca que: «No puede formular opiniones específicas sobre cláusulas individuales de la declaración preliminar hasta que una clara definición sobre los pueblos indígenas haya sido establecida...»

La posición de la República Popular China clarifica lo implícito: algunos estados asiáticos podrían favorecer, o al menos no bloquear, la adopción de criterios más explícitos en la Declaración Preliminar de las Naciones Unidas si estuviesen razonablemente confiados de que estos criterios no fueran aplicables a los grupos que habitan dentro de sus territorios.

Esto indica por lo tanto una posición de negociación:

> una Declaración Provisional sin fundamento definicional o con un fundamento franco y amplio va seguramente a encontrar oposición o provocar propuestas para su severa atenuación mientras que una Declaración Provisional con un fundamento definicional estrecho y preciso sería con certeza apoyada.

La actual evolución del movimiento internacional para los pueblos indígenas fue impulsada en sus fases preliminares durante los años setenta por grupos de las cinco regiones iniciales del Concilio Mundial de los Pueblos Indígenas: América del Norte, América Central, América del Sur, Australasia y la región nórdica.

La inclusión de los grupos asiáticos se debe a su desarrollo organizativo y al aumento de su actividad ante los foros internacionales. Sin embargo, perdura entre ciertos individuos activos en las regiones «fundadoras» una leve vacilación sobre esta inclusión ya que existe indudablemente la tentación de admitir un fundamento defi-nicional más estrecho para obtener el consenso de los estados asiáticos sobre criterios más explícitos en la Declaración de las Naciones Unidas. Afortunadamente esta tentación parece ser superada por la constante dedicación a los principios de universalidad y solidaridad presentes en el movimiento internacional para los pueblos indígenas.

Propuestas concernientes a la definición: Requerimientos e indicadores

El concepto de «pueblos indígenas» es, como cualquier otro concepto legal, una construcción que en sí misma posee un efecto formativo sobre las opiniones sociales y la evolución legislativa.

El concepto internacional de «pueblos indígenas» puede interpretarse como una abstracción de un vasto conjunto de com-

plejas y particulares realidades. Estas realidades incluyen una autopercepción y una posición política divergentes entre los grupos indígenas y las sociedades nacionales. El abstracto concepto internacional de «pueblos indígenas» es potencialmente derivable del contexto internacional a las sociedades nacionales mediante su elaboración y adaptación a un contexto específico. Esto se manifiesta más evidentemente en aquellas sociedades nacionales donde las decisiones políticas y legislativas toman en consideración las prácticas internacionales y los textos referentes a los pueblos indígenas así como también en las decisiones y modelos de otros países que involucran a pueblos indígenas. Esto ocurre también, en diversas formas, cuando grupos diferenciados utilizan el concepto internacional de «pueblos indígenas» para construir sus propias identidades. Por ejemplo, grupos cuya autoconcepción quizás no se centraba en la posesión previa pueden identificarse a sí mismos como pueblos indígenas con experiencias y percepciones compartidas con otros pueblos indígenas.

Las dudas sobre la aplicabilidad del concepto internacional en varios países asiáticos se basan en parte en lo conveniente del uso de este concepto en un contexto de rivalizantes visiones de identidad entre los grupos particulares y las sociedades y políticas nacionales.

Los beneficios políticos y legales directos e internacionales asociados con el ser un «pueblo indígena», la considerable significancia de la solidaridad internacional entre estos pueblos y el acceso a los beneficios locales, internacionalmente controlados, basados en el concepto de «pueblos indígenas» son relevantes en la evolución del concepto entre los diversos grupos, dentro de las sociedades nacionales, en las instituciones internacionales como así también en las actividades transnacionales.

Los grupos no estatales y los grupos con influencias en la estructura estatal, incluyendo aquellos con opiniones particulares sobre la soberanía nacional, difieren naturalmente en sus puntos de vista sobre la estructuración al acceso y los efectos movilizadores de estos beneficios. Estos factores influencian las posturas de ambos grupos con respecto al significado y la aplicabilidad del concepto internacional de «pueblos indígenas». Sin embargo estas posturas varían cuando las actitudes, los conceptos sociales y los intereses creados cambian.

El elemento definicional de continuidad histórica con sociedades preinvasivas y precoloniales es importante en muchos contextos, y es frecuentemente visto como un requerimiento fundamental. Sin embargo, también puede ser visto como un producto de la primera fase del continuo proceso social de construcción y elaboración del concepto de «pueblos indígenas». Durante esta fase el concepto de «pueblos indígenas», con su énfasis en la continuidad histórica no ha necesariamente reflejado la totalidad de categorías y realidades sociales en muchas partes de Asia y del resto del mundo. Representantes de los grupos estatales y no estatales continúan señalando, si bien con argumentaciones radicalmente diversas, que la actual interpretación del concepto internacional no incorpora adecuadamente sus intereses o sus realidades sociales. Por lo tanto y dependiendo del punto de vista, el concepto no puede ser razonablemente aplicado o no es probable que se implemente sin presión del exterior. Indudablemente existen elementos de cinismo y oportunismo en el debate. Sin embargo, cada una de las posiciones principales incluyen problemáticas relevantes y persuasivas que deben ser atendidas si el concepto ha de evolucionar y ser aplicable de forma útil y continua en situaciones donde la colonización o la invasión no son partes tan aparentes del contexto social. Las prácticas de las instituciones internacionales en relación con los «pueblos indígenas» sugieren que el elemento de continuidad histórica -el «haber estado primero»- no es considerado, desde un punto de vista funcional, como un requerimiento rígido y esencial. La adopción de una interpretación más flexible del significado de «pueblos indígenas» es consistente con las funciones del concepto en las instituciones y legislación internacionales. Una interpretación más flexible de esta definición puede proveer además una base para promover los valores fundamentales que forman el concepto de «pueblos indígenas» a la vez que reconocería tanto su cambiante carácter como la necesidad de desarrollar el concepto con vistas a su aplicación en un vasto espectro de situaciones. Por último, una interpretación flexible podría incluir la compilación de una lista de indicadores, algunos de los cuales serían requisitos y otros simplemente factores relevantes, a ser evaluados y aplicados en caso de dudas o desacuerdo. Tal lista podría asemejarse a lo siguiente:

Requerimientos esenciales:

-Autoidentificación como un grupo étnico diferenciado.

-Experiencia histórica con severas disrupciones, dislocación o explotación o potencial vulnerabilidad ante las mismas.

-Larga relación con la región.

-El deseo de retener una identidad distintiva.

Indicadores relevantes:

-No dominancia en la sociedad nacional o regional.

-Gran afinidad cultural con un área particular, con sus tierras o territorios.

-Continuidad histórica (especialmente por descendencia) con los anteriores ocupantes de los territorios de la región.

-Diferencias socioculturales y socioeconómicas con la población circundante. Características objetivas diversas: lenguaje, raza, cultura material o espiritual, etc.

-Considerados como indígenas por la población circundante o tratados como tales por los sistemas administrativos y judiciales.

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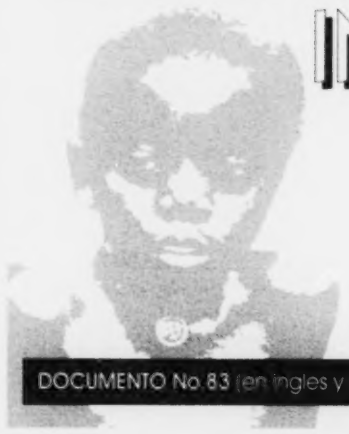

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«Descalzos en suelo profanado»

A continuación de la «irrevocable decisión» del 13 de junio de 1995 sobre la reiniciación de las pruebas nucleares en Moruroa y Fangataufa, en Tahití, Moorea, Huahine y muchas otras islas tan distantes como Mangareva, a todos nos surgió un sueño: detener la primera prueba en Moruroa programada para septiembre - ¡era posible! Luego, durante más de tres meses, marchamos, marchamos y marchamos un poco más. Aunque el Espíritu de la Paz nos guiaba, el espíritu de la unidad desapareció poco a poco. Nos olvidamos que aunque cada ola es diferente, el océano debe ser uno, y nuestro sueño se desvaneció.

La primera prueba tuvo lugar el 5 de septiembre de 1995. Al otro día, la juventud de Tahití se alzó, como cualesquiera otros jóvenes hubieran hecho, liberando su rebelión y su ira - nuestra ira. En un show de medios de difusión, desubicado si no obsceno, el centro de pruebas nucleares CEP trasmitió la prueba Thetys en televisión: la violación de nuestra Madre Tierra, en directo por TV. Este es el origen de esta declaración formal, un retorno a los valores eternos que hemos heredado de nuestros ancestros.

Preámbulo

El derecho inalienable a la tierra, la autodeterminación, la soberanía y la independencia es crucial para permitir a todos los pueblos del mundo unirse en la lucha común para liberar al planeta para siempre de las armas nucleares.

1. Para hacer que la gente reconozca que las armas nucleares deben ser abolidas como armas para realizar crímenes contra la humanidad, las generaciones futuras y el planeta Tierra: nuestra única madre.

2. Para destacar que, después del Tratado Comprehensivo de Prohibición de Pruebas (CTBT), necesitamos denunciar constantemente el «apartheid» nuclear que sólo puede ser finalizado por la firma de un tratado por la total eliminación de las armas nucleares por todos los estados, sin distinción.

3. Denunciamos, a la luz de los miles de soles de Hiroshima y Nagasaki, la posesión de armas nucleares, que sirve como preparación para crímenes de guerra y que es un crimen contra la humanidad, las futuras generaciones y el planeta Tierra.

4. Afirmamos, a la luz de los miles de soles de Hiroshima y Nagasaki, que las armas nucleares están en total contradicción con los convenios existentes que intentan proteger a la población civil en tiempos de guerra.

5. Denunciamos a las pruebas en tiempos de paz donde los civiles y el personal

Hace aproximadamente un año, Francia finalizó oficialmente su programa de pruebas nucleares en Polinesia y finalmente, después de 10 años, firmó el Tratado de Rarotonga que prohíbe las pruebas nucleares en el Pacífico. Pero desde entonces, no se ha dado un solo paso para mejorar la situación de los *maohi*, ni en lo que respecta al legado nuclear de 30 años de pruebas nucleares francesas ni al colonial. El legado nuclear está constituido por más de 130 hoyos que contienen radioactividad generada por la explosión de la misma cantidad de bombas atómicas en el frágil subsuelo del atolón de Moruroa - que podría filtrarse y contaminar el océano y las islas. Están también los efectos de los desechos de las pruebas atmosféricas sobre el medio ambiente y la salud de la población local. Debido al secreto militar, no se puede obtener ninguna información sobre los peligros para el medio ambiente o la salud.

técnico fueron considerados simplemente como conejillos de indias. Se debe concentrar toda la luz posible sobre estos actos bárbaros, dondequiera que hayan tenido lugar, y aquellos responsables deben ser acusados ante tribunales nacionales e internacionales.

6. Denunciamos a las cinco superpotencias, individual y colectivamente por su vergonzoso y calculado colonialismo nuclear. Y nosotros, como Polinesios, acusamos a Francia de colonialismo nuclear, que llega incluso tan lejos como al genocidio limitado.

7. Acusamos a Francia de haber tomado posesión por métodos coloniales de los sitios del Centre d'Experimentation du Pacifique (CEP): los dos atolones de Moruroa y Fangataufa.

8. Acusamos a Francia de someter a las autoridades locales a una manipulación legal en un intento de protegerse más tarde a nivel del derecho nacional e internacional. Esto no puedeimpedir el legítimo recurso del pueblo de Te Ao Maohi o un bloque compensatorio debido a las víctimas nucleares, ya sea individual o colectivamente.

9. Acusamos a Francia de ocultar el real estado de salud de los antiguos trabajadores de Moruroa y Fangataufa, y de la población de Te Ao Maohi. Hacemos un llamado por la organización de un estudio epidemiológico, garantizado por la Organización Mundial de la Salud (WHO) u otros organismos cuya autoridad sea indiscutida, y realizado por Organizaciones No Gubernamentales. Esto crearía, por un lado, la base para un enfoque más objetivo de esta realidad, y por otro lado, serviría como una base de trabajo para una Comisión de Compensación para pagar compensación a las víctimas y/o sus descendientes.

10. Acusamos a Francia del crimen de violación a la Madre Tierra. La deuda a pagarse no puede ser reducida, y permanecerá mientras que la radioactividad represente una amenaza a las futuras generaciones.

11. Finalmente, deploramos la incapacidad de actuar durante más de cincuenta años de -las Naciones Unidas (ONU) a un nivel moral y ético; la Agencia Internacional de Energía Atómica (IAEA) a nivel técnico- frente a la inadmisible presión y extorsión ejercida por las cinco potencias nucleares.

Sin embargo, deseamos que la decisión del 8 de julio de 1996 del Tribunal Internacional de Justicia sobre la legalidad de la amenaza o uso de armas nucleares, sea el primer paso del proceso que el Tribunal mandató, para finalizar las negociaciones conducentes al desarme nuclear en todos sus aspectos bajo un estricto y efectivo control.

Y solicitamos la reinscripción de los países que fueron retirados de las lista de la ONU de territorios no-autogobernables.

En conclusión:

1. Proponemos a otros pueblos, víctimas de pruebas nucleares:
a los *hibakushas* o sobrevivientes de Hiroshima y Nagasaki, Japón;
a los *aborígenes* de Maralinga y otros lugares de pruebas en Australia;
a los pueblos de Bikini, Enewetak y otros atolones de las Islas Marshall;
a el pueblo *laguna* y el pueblo *dine* de Nuevo México, el pueblo *shoshone* de Nevada, EE.UU.;
a el pueblo *kazhak*, ex URSS;
a el pueblo del Sahara, Argelia;
a el pueblo de Mongolia, China;
crear el primer círculo para establecer un Tribunal Internacional Consuetudinario que juzgue los crímenes de las cinco potencias nucleares de acuerdo a los valores de cada cultura. Debemos extender este círculo para dar la bienvenida y confortar a todas las víctimas de la era nuclear.

2. Proponemos que la opinión mundial, que ha sido movilizada desde el 13 de junio de 1995, forme un segundo círculo para apoyar, alentar y proteger los esfuerzos de los miembros del primer círculo.

3. Finalmente, proponemos que se cree un tercer círculo por aquellos que dispongan de autoridad moral en este planeta, como los ganadores del Premio Nobel de la Paz o los miembros de la Comisión Camberra, para promover un convenio internacional para la final abolición de las armas nucleares. La fusión de estos tres círculos en uno nos permitirá avanzar por el largo camino que nos espera, para la abolición de las armas nucleares. ❑

Polinesia queda con una economía no viable ya que la economía local, desde la década de 1960 y la llegada a Polinesia del C.E.P. («Centre d'Experimentation du Pacifique», es decir, el centro de pruebas nucleares del ejército francés), ha sido reemplazada por la «economía de la bomba», en la cual alrededor del 45% de la economía está directamente basada en la actividad militar francesa y otro 45% es dependiente de otros gastos y subsidios del gobierno francés - mientras que sólo el 10% es generado por las actividades locales. Aunque el actual sistema económico beneficia a ciertos grupos, un gran sector del pueblo maohi ha sido marginado y no tienen lugar ni futuro en la misma. Además, durante el mismo período, y bajo la influencia de un creciente número de inmigrantes franceses que impulsan el sistema francés, la cultura, la lengua y el sistema social maohi han sido también marginados, por lo que la llamada Polinesia «Francesa», a pesar de un sistema político modernizado, todavía puede ser considerada como algo tan anacrónico como una «colonia».

La conmoción creada por la decisión del presidente francés Jacques Chirac, en junio de 1995, de retomar las pruebas nucleares en la Polinesia «Francesa», la incapacidad de los maohi y la opinión pública mundial para impedir la detonación de seis nuevas bombas nucleares bajo el atolón de Moruroa a pesar de sus enormes protestas, y también la frustración debido a la falta de unidad dentro del mismo movimiento maohi, urgieron a un grupo de maohi de distintas afiliaciones (sindicatos, iglesia, movimiento independentista y ONG) a tomar nuevas iniciativas con el objetivo de renovar y unir la lucha del pueblo maohi contra el colonialismo nuclear.

El grupo, o «Collectif de la Déclaration de Tarahoi», logró su primer objetivo el 27 de enero de 1997, cuando se firmó la «Declaración de Tarahoi», en una ceremonia pública celebrada en la plaza Tarahoi, en el centro de Papeete, la capital de la Polinesia «Francesa», por un gran número de personalidades locales de partidos políticos y ONGs. La fecha de la ceremonia de la firma fue establecida de forma que coincidiera con la clausura de la Conferencia Internacional Abolición 2000 para la Abolición de las Armas Atómicas» celebrada por Hiti Tau (una red de ONG maohi de la Polinesia «Francesa») en Tahití y Moorea del 21 al 28 de enero de 1997. La mayoría de los delegados de la conferencia internacional, provenientes de todas partes del mundo: Palau, Islas Marshall, Hawaii, Tonga, Fiji, Samoa, Aotearoa (Nueva Zelanda), las Filipinas, Japón, EE.UU., Francia, Inglaterra, Alemania, Dinamarca, Noruega, Hungría, Israel, también firmaron la «Declaración de Tarahoi» en apoyo a la iniciativa maohi. ❑

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NAMIBIA

Proyecto Hidroelécrico de Epupa

Vista pública
Windhoek, 31 de octubre de 1996
Declaración de
la comunidad afectada

Estamos asombrados de enterarnos sobre esta Vista de Epupa precisamente ahora, cuando toda otra persona que no viva en el área de Epupa, parece haber estado enterada desde hace mucho tiempo. Las personas que puedan venir de otras regiones podrían asistir a esa reunión y decir que vienen del área de Epupa y que están de acuerdo con la construcción de una represa en el Kunene. Nosotros, quienes hemos nacido en el área de Epupa, objetamos estos planes - ¡no queremos que se construya esta represa! Y decir que "no queremos que se construya la represa" significa que todos nosotros decimos: ¡no queremos que se construya! Cada vez que el gobierno discute este tema con nosotros, tenemos que repetirlo, una y otra vez, ¡y ya estamos cansados de repetir que nos oponemos a la construcción de la represa de Epupa!

Se celebraron reuniones en Windhoek a las cuales no asistimos; reuniones sobre el tema de la represa, y, nosotros, que nacimos en el área, no estuvimos presentes. Por lo tanto, la gente del área no estaba allí, mientras que gente de otras regiones puede haber acordado construir esta represa.

Si nosotros mismos, que somos del área de Epupa, nos oponemos ahora a esta represa, es debido a muchas razones: el área que será afectada es el área donde se encuentran nuestras familias, hay gente que vive en toda esa zona - ¡nos es imposible abandonar esta tierra! Es dónde están las tumbas de nuestros ancestros, donde están nuestros cementerios - ¡no podemos renunciar a esta tierra! Es el área en la cual están nuestras pasturas, donde criamos a nuestro ganado - ¡no podemos renunciar a esta tierra! Especialmente los animales débiles y hambrientos pueden sobrevivir cerca del río - ¡no podemos renunciar a esta tierra! Es el área en la cual se encuentran nuestros campos, allí cultivamos, allí es donde obtenemos nuestro alimento - ¡no podemos renunciar a esta tierra! En esta área la gente recoge alimentos, las nueces *omaruinga* y *ongongo* - ¡no podemos abandonarla! Si pasamos hambre, vamos al río - ¡no podemos abandonar esta tierra!.

Si nos negamos a renunciar a la tierra para la construcción de una represa, es porque estas cosas afectan nuestras vidas. Esta área significa la vida del pueblo, de todos los que habitamos allí, de todos los que nacieron en el área. Los *tjimba*, que no tienen ganado, y los *himba*, que tienen, todos necesitamos a Epupa y debemos oponernos a la represa ya que si se construyera realmente, ¡significaría nuestra muerte!

Y si decimos que "Epupa" no será construida, que la represa no será construida, está demás decir que no habrá tampoco construcción en Oryokawe -no se construirá ninguna represa allí, y tampoco se construirá nada en Omukazeze- no se construirá ninguna represa allí. En lo que respecta a toda esta área, la cual es nuestra área, decimos que el gobierno debe abandonar finalmente estos planes. Son nuestros lugares, comenzando desde Oryokawe, hasta Epupa, y hasta Omukazeze. Pudiera parecer ser algo sin importancia construir una represa allí, pero hay muchas cosas que morirán y muchas cosas que nos afectarán y perjudicarán de forma fundamental. No nos negamos a renunciar a la misma Epupa, sólo para renunciar a otro lugar. Nos negamos a todos los lugares, empezando por Oryokawe: si nos enteramos de que la represa se construirá allí, decimos ¡no! ...en Epupa, decimos¡no! ...en Omukazeze, decimos ¡no! No existe ningún lugar que estemos dispuesto a renunciar para la construcción de una represa, ¡ni uno!

Si nuestro gobierno, que ahora está allí, escucha realmente a alguien, que no sea de aquí, que no sepa que nuestras familias están allí, que no sepa que nuestro pueblo está enterrado a lo largo del río, que no sepa que nuestros animales están allí, todo el ganado, vacas y cabras, que no sepa que los pobres dependen de los alimentos que recogen a lo largo del río, alguien que no conozca estas cosas - esto explicaría cómo se puede acordar construir una represa en Epupa. Pero entonces, nosotros, que nacimos en el área y vivimos en ella, nos sorprenderíamos mucho.

Entonces, nosotros, que venimos a Windhoek ahora, no somos de Windhoek, y por lo tanto no celebramos reuniones en Windhoek o entregamos cosas que pertenecen a la gente de Windhoek. Sabemos que los temas que conciernen a Windhoek son conocidos por la gente que vive allí, por ellos mismos. En cualquier país, los temas deberían decidirse por aquellos que son los legítimos ocupantes del lugar. Estamos sorprendidos de ver que alguien, que proviene de otra área, está tratando de entregar la tierra, mientras que aquellos que nacimos allí decimos ¡no! Y estamos decepcionados de ver que nuestro gobierno, que ahora está allí, obviamente nos ignora, a aquellos que vivimos en el área de Epupa - ¡¿por qué sucede éso si se dice que nuestro país es libre ahora?! ¿O significa, en otras palabras, que este país en realidad no es libre?

Una persona que viene de cualquier otra parte no entrega la tierra de otros. Vemos la creciente presión que este gobierno impone sobre este tema, en este momento. Nadie, que sea del área de Epupa, otorga permiso para construir una represa allí, y una persona de otra área no puede entregar las tierras que pertenecen a otros. Estamos sorprendidos de ver a nuestro nuevo gobierno, que dice ser democrático y justo - entonces: ¿es este país libre ahora, o no? Preguntemos a este gobierno: quizás sólo parte de este país es libre, y otra parte no es libre, ya que si se nos preguntara sobre la parte de Epupa a entregar, diremos ¡no! Si fuera entregada ahora para la construcción de una represa, es entregada por alguien que no es el dueño de la tierra.

Ya ahora hace seis, siete o quizás ocho años que estamos hablando de Epupa, todavía lo seguimos discutiendo. Mientras tanto, hemos solicitado la realización de un estudio y hemos buscado consultores, quienes están ahora en Epupa. De acuerdo a lo que oímos de los consultores que están en Epupa, no se dijo que el proceso de investigación estuviera concluido o que no seguiría siendo investigado.

Recién hemos llegado de hablar con los consultores, y hasta ahora, no existe ninguna decisión sobre el tema de Epupa. Todavía estamos esperando que se concluya el estudio de factibilidad y recién entonces, luego, se tomará una decisión sobre Epupa por parte de las legítimas autoridades de Windhoek. Estamos sorprendidos de oír a la gente hablar como si ya estuviera decidido, mientras que el estudio de factibilidad todavía está en marcha, es decir, esperamos que estos consultores, a quienes encargamos la investigación sobre Epupa, estén ahora en esta reunión. Hemos otorgado exclusivamente a Epupa a estos consultores, quienes deberían terminar primero su estudio. Y, como estamos ahora aquí, queremos también preguntar, ya que nunca se nos dijo: ¿quiénes son aquellos que quieren construir esta represa, son de otros países o son de aquí? ¿Qué es lo que hacen, qué es lo que quieren, y cómo quieren impulsar sus planes?

Repetimos, estamos sorprendidos, que esta reunión sobre Epupa sea celebradaen Windhoek, y no en Epupa. Las reuniones públicas relativas a Epupa deberían ser celebradas con la gente del área de Epupa, es decir, no deberían ser celebradas en Windhoek. Realicénlas en Okaguati o en Epupa. El lugar concerniente es Epupa, ¡no estamos hablando de Windhoek! Por lo tanto, la discusión sobre Epupa ha sido en realidad sustraida a la gente que vive en el área, es decir, ellos no están enterados siquiera sobre estas reuniones que se llevan a cabo en Windhoek. La persona, que es del área, la persona, que se supone va a discutir el tema de Epupa, puede que no asista a la reunión y recién se entera más adelante que Epupa ha sido entregada. Si se discute si Epupa va a ser entregada o no, tendrían siempre que estar allí, estar allí para que todos se comprendan bien. Todos deberían saber que la gente del área de Epupa quieren que sus reuniones se celebren en Epupa o en Okanguati, en el área de aquellos a quienes atañe. No debería discutirse en Windhoek donde, según oímos, gente que no tendría que hacerlo, entrega nuestra tierra. Quizás la persona que habló allí no sea del área de Epupa.

¿Y, pudiera ser, que la reunión tema a la gente que viven en el área de Epupa, porque dirán ¡no!? Sin embargo, si de cualquier manera se discute con otra gente que no son los propietarios de Epupa - ¿es este gobierno entonces realmente un gobierno justo y democrático, y es cierto que ya no existe la discriminación? Si este es realmente un gobierno libre y democrático, entonces todos deberíamos tener los mismos derechos. Dejémonos de discutir sobre Epupa en Windhoek, si se tiene que celebrar una reunión sobre Epupa, debería siempre ser celebrada en Epupa, en la misma área concerniente; que se discuta allí.

No siempre podemos venir a Windhoek y dejar nuestras familias y nuestros niños solos. Una y otra vez, tenemos que asistir a reuniones sobre estos problemas, que se nos imponen desde afuera. Sin embargo, a pesar de la dificultad para asistir a estas reuniones, no tenemos otra opción; sabemos que este es un tema serio, ya que esta represa, que se supone que se va a construir, nos despojará de nuestra tierra, y por lo tanto nos veremos obligados a abandonar nuestro trabajo. Pero incluso así, la mayoría de nosotros no puede asistir a las reuniones porque tenemos que quedarnos en casa y trabajar, tenemos que hacernos cargo de nuestros niños, familias, campos y rebaños. Pero no se atrevan a decir que una persona que no puede asistir entregaría su tierra. ¡No, no entregamos a Epupa! ¡Enviamos a nuestros representantes para hablar por nosotros, pero todos decimos lo mismo, todas las mujeres y hombres: ¡Epupa no será construida! Estamos cansados de tener que repetirlo una y otra vez: ¡no será construida!

Entonces, en caso de que Epupa sea construida, habrá también otros lugares del país que resultarán afectados. La gente de esos lugares también han escuchado sobre el problema y estudiarán el tema. ¡No digan que estarán de acuerdo con la represa de Epupa! La gente que se opone a la represa proviene de muchas familias. Todos se niegan a renunciar a Epupa y tampoco lo harán con Oryokawe o Omukazeze, y todos viven y han nacido en esta área. Hay otras comunidades a mencionarse, la gente de las familias de Tjiruru Mbendura, que nacieron en el área y que también se niegan a renunciar a Epupa, de Kahivanga Rutjindo, que nacieron allí, de Tjihenu Tjambiru, que nacieron allí y se niegan a renunciar a Epupa, de Uyeure Muhenye, que nacieron allí y que se niegan a renunciar a Epupa. Entonces, toda esta gente, así como Mbendura, la gente de su familia y toda su comunidad, ellos nacieron en el área de Epupa ¡y no renuncian a ella! Y Tjikumbamba Tjambiru, que nació en el área de Epupa, y toda su comunidad, ¡no renuncian a Epupa! Y Kozongombe Tjingee, quien nació en el área de Epupa y toda su comunidad, ¡ellos no renuncian a Epupa para que se construya una represa! Y Ukoruavi Tjambiru, que nació en el área de Epupa, y toda su comunidad, ¡ellos no renuncian a Epupa! Y Ruhara Muhenye, que nació en el área de Epupa, y toda su comunidad, ¡no renuncian a Epupa!

Y por lo tanto, Epupa nos pertenece, así como a la gente de Angola. Por eso, celebramos reuniones con la gente de Angola. Todos nosotros, la gente de Angola, y nosotros, la gente de Namibia, todos estamos de acuerdo que ni en Epupa ni en Oryokawe ni en Omukazeze, en ninguno de estos lugares será construida una represa. Discutimos el tema entre nosotros, nosotros, como pueblo, que nacimos en el área de Epupa, la gente de Angola y la gente de este lado del río, celebramos reuniones conjuntas, y juntos, todos nosotros, nos oponemos a la represa.

Decimos: ¡Epupa es nuestra vida! ¡Allí están las palmeras *omarunga*, las nueces *ongongo* y allí están nuestros campos y hogares! ¡Y es la vida de nuestras ovejas y cabras, de nuestras vacas y terneros! ¡Y allí, del otro lado, en Angola, hay cementerios, así como también de este lado del río, en Namibia, allí están nuestros cementerios! Desde Karumbu hasta Otjavaya, nos negamos a la represa de Epupa y decimos: ¡no se atrevan a construirla!

¡Todos decimos ésto, todos los hombres y las mujeres decimos ésto! Junto con las comunidades de Tjihaka Kapika, de Mutiri Mbendura, de Katjetu Ndunge, de Kayupa Tjambiru, de Kapira Kapika, de Tjikondomboro Ndunge, de Mbatira Kapika, de Tjizorondu Tjambiru y Mbiya Tjambiru de Angola, con sus consejeros y comunidades, quienes hemos conocido y quienes coinciden con nosotros - todos nosotros decimos: ¡Epupa no será construida!

Y si decimos "Epupa", no sólo nos oponemos a la represa de Epupa en sí misma, ¡sino que nos oponemos a cualquier represa que sea construida a lo largo de todo el río Kunene! ¡Eso es lo que decimos!

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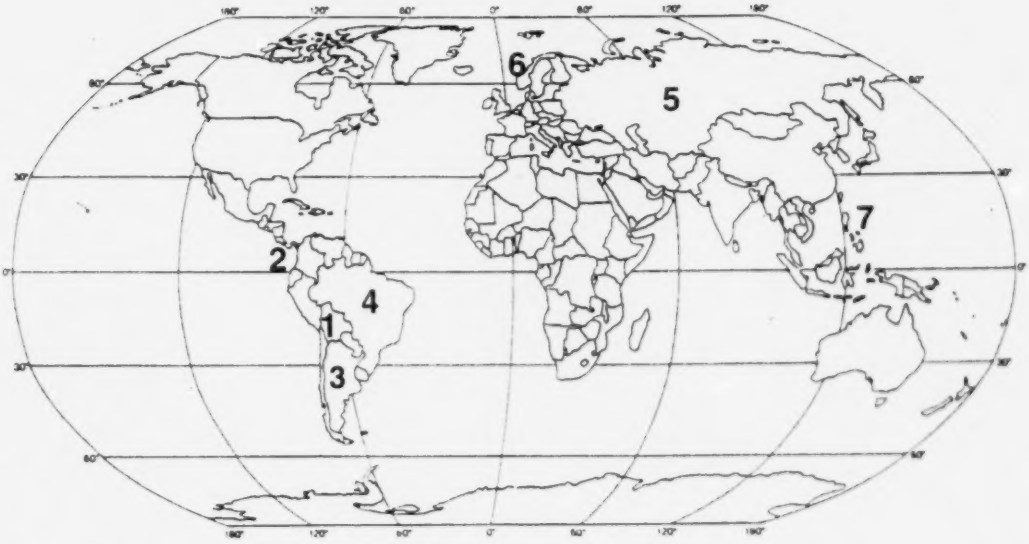

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Editorial

Despite increased and ever more vocal participation by indigenous peoples at the international political arena, the human rights situation of indigenous peoples remains critical.

A major threat to the lives, cultures and dignity of indigenous peoples is the rapidly ongoing loss of ancestral territories and the loss of access to and control over land resources. On so many occasions indigenous representatives have tried to explain to the world that ancestral lands and territories are not only a fundament for physical survival and for continuation of their mode of production, they are likewise crucial for their whole cultural and spiritual world – a link to the past and essential for the continuous practice and development of indigenous identity.

The fundamental importance of territorial rights is highlighted in international human rights instruments like the Draft Declaration on the Rights of Indigenous Peoples.

However, reality looks different. The ancestral territories of indigenous peoples are often situated in areas rich in resources and of major economic importance to states and multinational capital. This ranges from minerals such as gold, coal, copper and oil to vast water and timber resources and to areas with high potentials for tourism development. States, national and large, multinational companies are on an ever-increasing scale encroaching upon indigenous peoples' territories in search of profit. Indigenous peoples are struggling all over the world to maintain or regain rights and control over their territories. They are up against powerful forces and the struggle is a long difficult one.

African indigenous peoples face tremendous problems. Very few African states recognise that they do have indigenous peoples at all and that steps should be taken to safeguard their rights. And the extremely marginalised indigenous groups are constantly faced with loss of territories, human rights abuses and very poor living conditions. African indigenous organisations are emerging and speak up and seek to take action against the injustices taking place. However, these organisations are still not as strong and experienced as many other indigenous organisations around the world. The concept guiding many African states is 'national unity' stressing that all ethnic groups within the nation-state should adhere to a common national identity. This is in many respects understandable as ethnic conflicts and tribalism are very real threats to the peace and stability of many African states. However, the 'national unity' concept is also easily misused by states to suppress any group which speaks up and demands that their territorial rights and thereby their whole culture and way of life be respected and protected. Examples of such repression are manifold. In this issue of *Indigenous Affairs* we bring examples from Tanzania, Namibia and Botswana.

In the article *'Uncertain Future for Maasai of Ngorongoro'* by Charles Lane the desperate situation of the Maasai people of the Ngorongoro Conservation Area in Tanzania is described. Many of the Maasai people are now starving as the livestock production has seriously declined due to lack of access to pastures and cattle diseases. The Ngorongoro Conservation Area is Tanzania's most visited tourist destination, but it is international hoteliers and the Tanzanian State rather than the local Maasai residents who gain the benefits. The Maasai are denied property rights and international conservation organisations lobby for the eviction of the Maasai people from the area.

The likewise desperate situation of the remaining Bushmen living in the huge Central Kalahari Game Reserve in Botswana is described in the article *'Resettlement of Khwe Communities Continues'* by Christian Erni. Central Kalahari Game Reserve is one of the largest protected areas in Africa and one of the last places in Botswana where the Bushmen to a certain extent still have the possibility to practise their traditional way of life. However, the Botswana government is now attempting to move the Bushmen

Cover: Photo: Mark Hakansson

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by Marianne Jensen

out of the game reserve. Many have already been moved to settlements outside the game reserve where the living conditions are depressing and where alcoholism is widespread. Others are still trying to resist removal, but they are under heavy pressure and it is still uncertain as to whether or not they will succeed in making a land claim and ultimately gain ownership rights over their ancient territory.

In Namibia the situation of the Himba people is also very critical. Terese Sveijer describes in her article *'The Himba People's Fight against the Planned Construction of a Dam'* how the pastoral Himba people, who live in a remote and dry part of northern Namibia, are seriously threatened by the plans of the Namibian government to construct a huge dam for the production of electricity. Many of their areas will be flooded including important ancestral burial grounds, and their whole way of life is at risk. Almost no consultation has been done with the Himba who are still trying to speak out against the planned project.

Next to dam projects and the tourism industry, mining is a major threat to indigenous peoples' territories. This is very much the case for the indigenous peoples in the Philippines, and in the article *'Gold Mining and the Threat to Indigenous Peoples' Rights in the Philippines – the Case of the Subanen'* Geoff Nettleton describes how some of the largest mining companies of the world are in a race to exploit the large mineral deposits of the Philippines. They are attracted by conditions which are among the most favourable to mining companies in the world. Many of the companies have adopted a new public relations style to improve their image. However, on the ground the consultation processes with the local indigenous peoples are still poor and many indigenous peoples such as the Subanen resist mining operations which will ruin their ancestral lands.

In Columbia the situation of the indigenous peoples is deteriorating and during the past months the climate of violence has deepened. This issue of *Indigenous Affairs* documents abuses which continue to be committed in Sotavento and Choco where numerous indigenous peoples have been killed.

Another serious violation of the human rights of indigenous peoples has for years taken place in 'French Polynesia' in the form of French nuclear testing. Martine Pétrod describes in the article *'A New Initiative Against French Nuclear Colonialism in "French Polynesia"'* how the systematic explosions of nuclear bombs – which took place despite protests from the Maohi people and from the international community – has seriously affected the living conditions of the Maohi people. And the *Tarahoi Statement* initiated by Maohi people against nuclear colonialism is printed in its full length.

However, this issue of *Indigenous Affairs* also gives account of progress and positive developments. One such example is the establishment of Nunavut in north-eastern Canada. Here the Inuit have got territorial rights to a large area, and a political accord calling for the establishment of a self-governing region Nunavut in 1999 has been attached to the land claim agreement. As described in the article *'Gender Parity in Nunavut?'* by Jens Dahl the preparations for establishing the institutions for such self-governance have recently resulted in a highly interesting plebiscite. The issue was whether or not the new self-governing territory of Nunavut should have a legislative assembly with an equal number of men and women. The proposal was turned down by the people themselves, but still many voted in favour. This plebiscite is interesting for many reasons. It reflects that an indigenous culture like the Inuit in Nunavut is neither homogenous nor static. It is a dynamic and broad culture which changes and develops along with the surrounding world, but on their own terms and based on genuine self-determination.

At a certain point in time it likewise looked as if the situation of the Aboriginals of Australia would finally improve. The ultimate peak was when the Native Title Act came into existence in 1993 which made possible recognition of fundamental rights such as land rights. However, on 4 September this year the Australian government introduced hundreds of pages of amendments to the Native Title Act with the purpose of extinguishing most of the Aboriginal rights recognised by the High Court in all but name. In the article *'Australia: Going Forward or Going Backward?'* Olga Havnen gives a shocking account of how the human rights situation of the Australian indigenous peoples is seriously deteriorating under the present Howard government, and how racism is still flourishing in the Australian society.

The situation of the Sámi people in Sweden, Norway and Finland is better as compared to that of many other indigenous peoples living in poor and weak states in the South. However, there is still a long way to go. The article *'Land Rights, Linguistic Rights and Cultural Autonomy for the Finnish Sámi People'* by the Finnish Sámi Parliament points out the shortcomings in the guarantees for the land rights of the Sámi people. And it addresses the fundamental importance for the Sámi people to have the right to use their own language and to develop their own culture on the basis of cultural autonomy. It likewise highlights the increasing hostile attitudes in Finland towards the Sámi people.

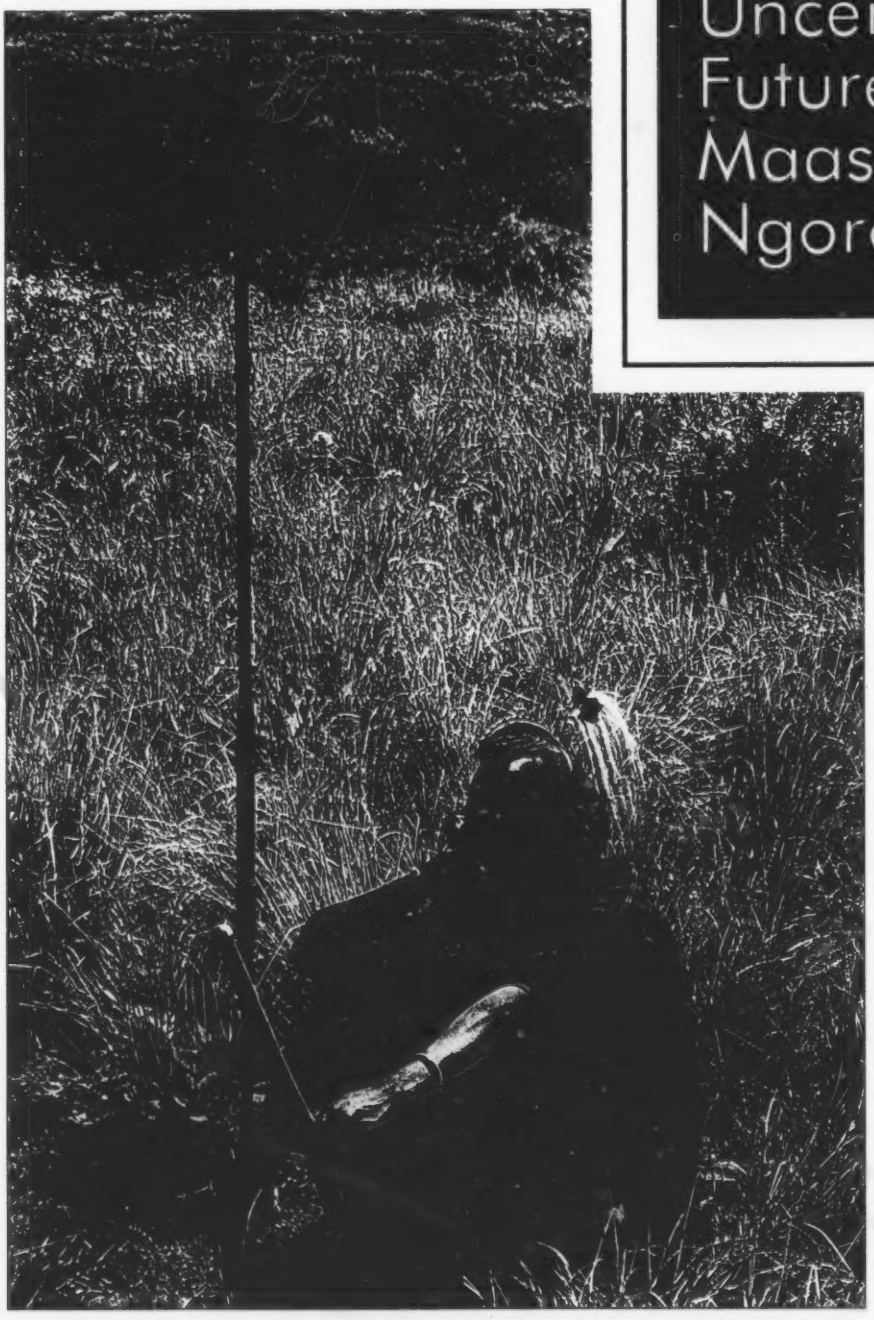
With the 50-year anniversary of the Universal Declaration of Human Rights just around the corner one definitely has to recognise that there is still a very long way to go before real respect for human rights for indigenous peoples is achieved. However, the important work in the UN Working Group on Indigenous Populations is still continuing and developing and we present a number of statements from the 15th Session, held in July 1997.

Finally, this number includes book reviews of important publications relating to indigenous issues in Australia, 'French' Polynesia and India. ❑

TANZANIA

Uncertain Future for Maasai of Ngorongoro

by Charles Lane

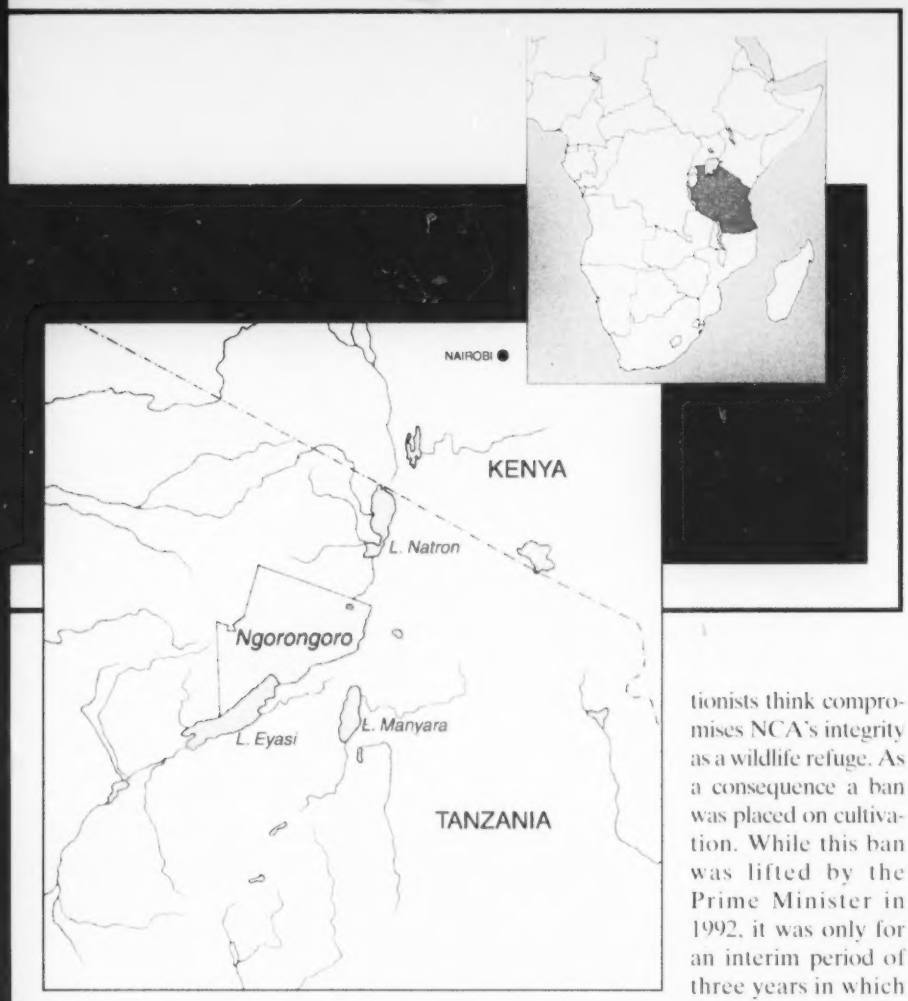


Maasai warrior contemplates his future in Ngorongoro. Photo: Charles Lane

Those of us concerned with the well-being of the Maasai must work together to ensure that the present problems are solved and that the people of Ngorongoro have the chance to control their own development

(Hon. M. olle Timan MP Ngorongoro district)

Administration of the Ngorongoro Conservation Area (NCA) in Tanzania has proved problematic from its inception. An equitable balance between the needs and rights of indigenous residents and the preservation of wildlife has never been satisfactorily achieved. This is despite a legislative requirement for the Ngorongoro Conservation Area Authority (NCAA) to administer NCA as a multiple land use area with the obligation to safeguard and promote the interests of Maasai residents. NCAA's failure to fulfil this mandate has resulted in antagonism between residents and administrators. This is compounded by the fact that promises of water facilities and livestock services made by way of compensation for Maasai evictions from the Serengeti National Park in 1959 have never been properly fulfilled to this day.



Resentment was later fuelled by the forceful eviction of residents from the 'Crater', and their exclusion from other areas like the Northern Forest Reserve that denies residents access to vital pastures. A ban on grass burning is thought to have led to the growth of unpalatable species and an increase in tick infestation. Increased wildlife populations have competed for forage, and wildebeest have effectively denied access to the lowland plains due to the risk of transmission of Malignant Catarrh Fever - a disease fatal to cattle.

These factors have combined to undermine livestock production such that the livestock:human ratio has declined to below subsistence level for 37% of residents, with 41% of children suffering from malnutrition. In an attempt to attain food security residents have cultivated crops, something many conservationists think compromises NCA's integrity as a wildlife refuge. As a consequence a ban was placed on cultivation. While this ban was lifted by the Prime Minister in 1992, it was only for an interim period of three years in which time NCAA was to boost the pastoral economy. However, advances in pastoral development have been meagre, yet the current General Management Plan (GMP) proposes to have the ban re-imposed.

Despite the income generated by NCA as a World Heritage site and Tanzania's most visited tourist destination, residents have been forced to bear the costs of conservation and receive very few of the benefits. They have had to watch powerless as tour operators have made profits by enjoying NCA resources and facilities almost without restraint, and seen their land allocated to international hoteliers while they are themselves denied property rights, freedom of movement, and face the prospect of having withdrawn the right to grow crops necessary for their survival.

Not surprisingly, NCA has attracted international attention and that of many other interests. International wildlife conservation organisations have allied with NCAA to pursue wildlife conservation objectives. Research scientists have found it a good source of investigation. A number of international aid organisations have tried to support pastoralist development with little success. To date, those working with communities and those interested in wildlife have rarely collaborated in a unified approach, and there remains distance between them.

More importantly, residents as a whole have been almost entirely excluded from decision-making processes. This recently came to a head with the drawing up of the General Management Plan (GMP) in which they were inadequately consulted and the interests of wildlife conservation were made paramount. A challenge by residents to the GMP has led to a stand off between those supporting indigenous residents and those who favour wildlife. Despite their protest, the GMP has been 'approved' and is being imposed on an unwilling population - a highly unsatisfactory state of affairs and one that ultimately threatens the multiple land use policy, and perhaps the future of NCA as a conservation area.

At a recent meeting in London of the Ngorongoro community donor/supporter group a number of dramatic revelations were made. Participants were alerted to

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Ngorongoro Maasai elders meet to discuss the problems of living in a conservation area. Photo: Charles Lane

the current food crisis facing the people of Ngorongoro that unless addressed could lead to starvation and destruction of the pastoral economy.

Findings of a legal study carried out by eminent lawyers at the Land Rights Research and Resources Institute in Dar es Salaam indicate that NCAA has been acting with sweeping powers in contravention of people's rights as enshrined in the Constitution. The study argued that local participation in the management of NCA was a right and not simply a mechanism for better management, and it was revealed that selected representation of residents in the Pastoral Council fell short of genuine participation.

The study further confirmed that creation of NCA by statute did not extinguish deemed (customary) rights to land. The protection this theoretically afforded residents was nevertheless at risk with news that NCAA was applying to acquire statutory title to NCA land. Thus at the stroke of a pen residents could be rendered landless. The fact that this was being attempted without the knowledge of the residents is symptomatic of the way the NCA is currently being managed.

Recommendations were made for residents to resist alienation from their land, and work for reform of NCA's legislation to ensure respect of their rights and full participation in management in future. The following statement was endorsed by representatives of NCA and by a majority of those attending the meeting:

1. We support the strengthening of a Pastoral Council to represent and enable effective participation of NCA people adequately in all matters of conserving natural resources and social and economic development in NCA.

2. The meeting was concerned to hear of the NCAA Board's decision for NCAA to obtain registered title to the land of NCA.

* We support the people of NCA in their efforts to secure effective land rights in NCA.

* We support the people of NCA in their efforts to prevent NCAA from obtaining legal title to the land of NCA.

3. Participants believe that the current food crisis in NCA has to be immediately addressed through emergency food relief by NCAA and the international community. We therefore urge Conservation Authorities to use funds

already allocated in the budget for this purpose.

We also call on the NCAA to initiate a comprehensive long-term programme aiming at rebuilding the sustainable pastoral economy in NCA. It is evident, however, that long-term food security and self-reliance of NCA residents cannot be achieved without respecting their rights to continue small-scale subsistence cultivation.

4. The meeting supports any endeavour to ensure that all development and conservation activities in NCA, supported by international NGOs and donors, are implemented only in effective consultation with the NCA people.

If the future of NCA is to be assured for the benefit of indigenous residents, wildlife conservation, tourism, science and the national economy, then changes will have to be made in the way NCA is administered. Foremost among these is the integration of residents with formal administrative structures. Consequently, they want to register a representative organisation that can effectively negotiate their interests with NCAA. Without this facility they feel they will otherwise be forced to rely on the benevolence of outsiders and remain vulnerable to the shortcomings of past mismanagement as typified by recent events.

Charles Lane *is trained as a lawyer, agriculturalist and social scientist, and he has done extensive research and field work among pastoralists in East Africa. As an independant consultant, he is currently advising Survival International on a three-year programme of support for pastoral rights in East Africa.* ❑

LAST MINUTE NEWS

Peace Agreement in Chittagong Hill Tracts signed

On 2 December the signing of a peace agreement between the Government of Bangladesh and the Parbattya Chattagram Jana Sanghati Samity (PCJSS) ended the decades-long war which brought so much hardship to the indigenous peoples of the Chittagong Hill Tracts (CHT). The agreement provides for a general amnesty to the Shantibahini (the armed resistance force), for support to their economic and social reintegration, and for a certain degree of self-governance. A land survey is planned to settle land disputes and to ensure land ownership. The much disputed land ownership issue definitely represents one of the biggest challenges for the implementation of the peace agreement. Although all temporary camps of the Armed Forces will be dissolved, the army will maintain its main camps in all three districts in the CHT.

For more information on the peace agreement in the CHT as published in the press consult the Internet edition of the *Daily Star*, issue from 3 December, at:
http://www.dailystarnews.com

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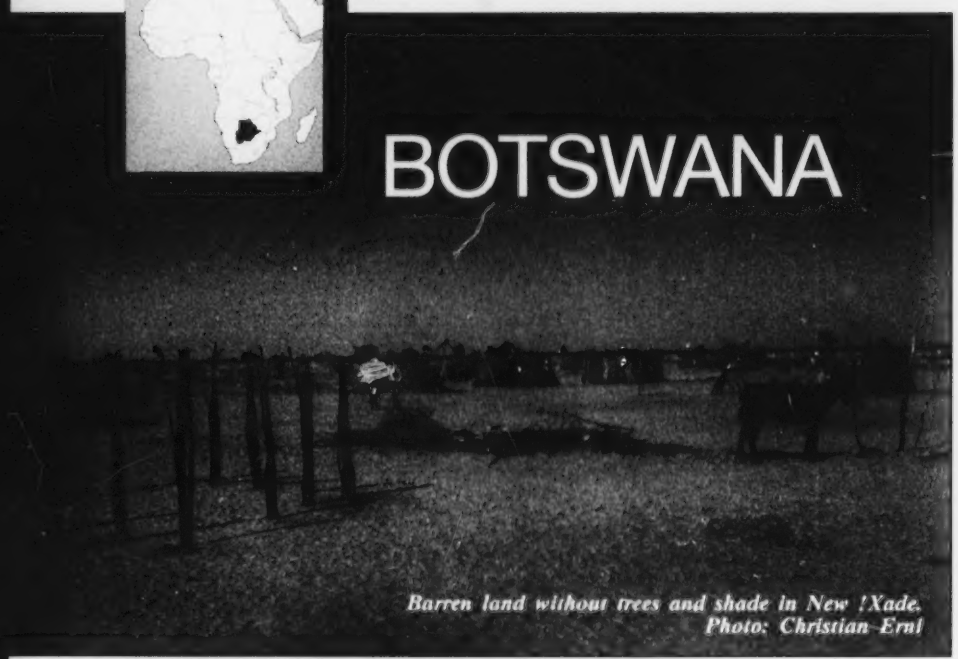


Barren land without trees and shade in New !Xade.
Photo: Christian Erni

Resettlement of Khwe Communities Continues

by Christian Erni

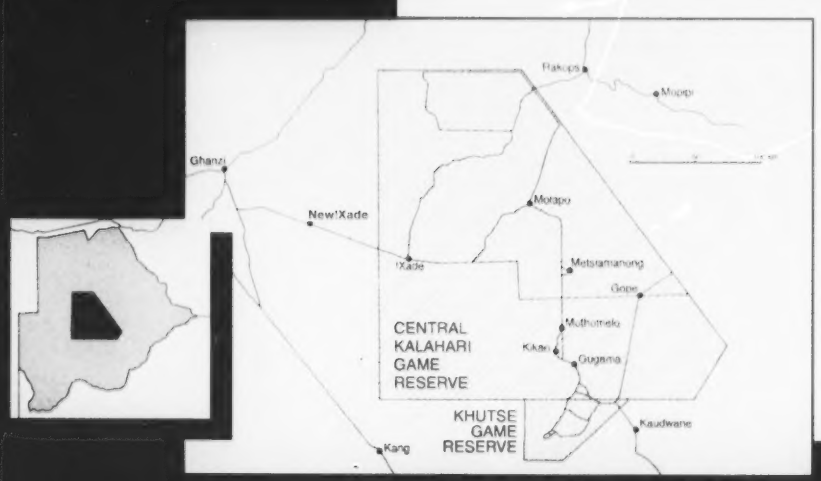
Obviously unimpressed by protests of local and international human rights organisations, the Botswana government continues with the resettlement of the Khwe[1] communities in the Central Kalahari Game Reserve (CKGR). With its 52,347 km² the CKGR is the largest protected area in Botswana – and one of the largest in Africa. It was established in 1961 by the government of the former British Protectorate of Bechuanaland. The Khwe, who still subsisted largely on hunting and gathering, as well as the black Bakgalagadi communities who moved into the area in the 19th century, were allowed to continue practising their traditional lifestyle within the game reserve. Although not explicitly, the establishing of the reserve de facto meant a certain protection from encroachment on the ancestral lands of the Central Kalahari communities, and allowed them to continue with their traditional way of life as foragers.

Over the past two decades, the widely dispersed, small Khwe bands began to settle in seven permanent villages with 40 to 500 people. This settlement process was mainly brought about by the government's Remote Area Development Programme, in which the communities were provided with water, and a school and clinic were established in !Xade, which became the largest settlement, as the government's services attracted people from all three ethnic groups in the CKGR: the G/wikhwe, G//anakhwe and Bakgalagadi.

However, already in 1986 the Ministry of Commerce and Industries, after having conducted an evaluation of the situation in the CKGR, announced that: 'Viable sites for economic and social development should be identified outside the Reserve and the residents of the Reserve encouraged – but not forced – to relocate at those sites'.[2] And since the late '80s the government let all development programmes among the communities of this area peter out.

The local government has also proved to be rather slow, if not reluctant, in fulfilling its duty of maintenance and repair of the water pumps. While the district government of Ghanzi, who has the administrative responsibility for the CKGR, in 1990 still explicitly expressed its disagreement with the resettlement plans and argued in favour of development programmes for the communities within the reserve, it has changed its mind in the meantime and sided with the central government.

In May this year most residents of !Xade, with some 500 people comprising almost half of the 1000 to 1200 inhabitants of the CKGR, were resettled by the Ghanzi District government to a site



about 60 kilometres from the reserve's western boundary. New !Xade is a desolate place with hardly any trees to provide shade and without potable water. Whereas the water from the borehole at old !Xade is plentiful and of excellent quality, the new settlement will be serviced by a some 50-kilometre long pipeline, bringing a rather brackish water from another borehole. And contrary to promises, the people were not provided with any building material, and even had to bring the wood from their old huts to rebuild them at the new site.

The relocation took place shortly before the onset of the coldest time of the year, when temperatures can drop to well below freezing at night. People had to camp in the open or tried to quickly establish makeshift shelters. But money was plentiful. Many a Khwe never had that much money in their pocket before. So the first few weeks or months were a time of feasting – and indulging in excessive alcohol consumption, as outside traders selling all kinds of brews soon appeared on the scene. It is foreseeable that alcoholism, like in all Bushman resettlement sites of the country, will soon become a major problem – especially because it is not very likely that the resources available at New !Xade will be sufficient to allow the people to recreate their former subsistence economy based on small-scale herding and hunting and gathering.

The population of New !Xade, which is still increasing due to continued resettlement from the CKGR, is already too large to make land-based economy a feasible option for all of its residents. And the people have neither been given the necessary permits for hunting and for gathering veld food, nor have they received any of the promised cattle. Lack of economic opportunities and ultimately lack of land rights are the major reasons for the desperate situation most Bushmen find themselves locked into in the resettlement sites all over the country. Consequently, forced idleness, complete dependence on government subsidies and no perspective for gaining some degree of self-determination over their own future and destiny create a deep-seated feeling of powerlessness, hopelessness, resignation and consequently the escape into alcoholism.

The resettlement process

There exist contradictory reports and opinions on the circumstances under which the resettlement to New !Xade has taken place. According to the government, the people have agreed to be resettled. And independent local organisations as well as a fact finding mission conducted by the Heads of the Mission of Britain, the USA, Norway, Sweden and the EU in New !Xade in July 1997 confirmed that no threat or use of physical force occurred. However, the mission team could hardly have gained a deeper insight into how the resettlement process actually had taken place, as it was guided by a large delegation of government officials, including the Ghanzi District Commissioner, making the necessary free discussions with the people difficult.

Most people interviewed by NGO workers and journalists in New !Xade feel that they have been forced to move. It became evident that their initial resistance was worn down over the years by a persistent carrot-and-stick policy. For more than a decade, the people have been constantly told by the local officials that they will eventually be resettled. But nothing happened until last year, when efforts were made to convince each family individually of the necessity – if not unavoidability – and the advantages of moving out of the reserve. People are much easier intimidated when visited by the officials individually, when they lack the support of their relatives, friends and neighbours, and the often contradicting and false allegations create confusion and even divisions among the community. Highly varying amounts of money were offered as compensation, the criteria applied never having been made transparent. Promises of better infrastructure, job opportunities and income generating projects were made, while at the same time they were told that the existing service like water provisioning, the clinic, the co-operative and the school would not be maintained within the reserve even if they decided to remain.

After the resettlement of the !Xade community, several local and international organisations called for a moratorium on the resettlement programme until an independent mission has established the facts on the conditions and methods applied in the process, has gained a clear picture of the views and aspirations of the affected people, and has assessed possible alternatives to the resettlement.

On 15 and 16 June 1997 the local Bushman organisation 'Kgeikani Kweni' ('First People of the Kalahari') convened a workshop of the CKGR Committee (which consists of the elected CKGR community representatives). The purpose was to establish a Negotiating Team that would seek negotiations with the government on the transfer of ownership rights over the ancestral lands of the CKGR to the residents living there and their successors. The Negotiating Team formed consists of two representatives

New!Xade: Most Khwe people are forced to remain idle as there are very few jobs. Photo: Christian Erni

of each of the seven villages of the CKGR who are members of the already established CKGR Committee, one delegate of each of the three Bushman organisations in Botswana (First People of the Kalahari, Kuru Development Trust and the Working Group of Indigenous Minorities in Southern Africa, Botswana), and a number of non-voting members either as individual advisors or as representatives of local non-indigenous NGOs. It was decided to send a letter to the Ministry of Local Government, Lands and Housing asking for a meeting earlier promised to the CKGR residents by both the President and the Minister in order to discuss the land rights of the CKGR residents to the Game Reserve. The meeting was envisaged to be the first in a series which should eventually lead to the settling of the land claim. The Negotiating Team was expressing its hope that the following agreement would be reached at the first meeting:

1. That there shall be a moratorium on all removals from the CKGR until the land claim has been resolved;
2. Existing services to villages shall be maintained until a settlement is reached, or the matter is otherwise resolved;
3. Villagers resident in the CKGR shall be entitled to access to development opportunities similar to those enjoyed by San communities living outside the Reserve, but sensitive to the purpose for which CKGR was first proclaimed, pending a resolution of the land claim;
4. The Negotiating Team and in particular the CKGR Committee shall be considered by theGovernment to be the authentic representative of the San residents of CKGR;
5. The Government shall not communicate directly with individual residents of the CKGR, but shall channel all communications through FPK, and the advisers to the team [ ];
6. The Government shall disclose all information (and supply copies of documentation where such exists) relevant to its policy of removals, and to those residents who have been removed since December 1996;
7. There shall be an agreed timetable by which the parties shall endeavour to resolve the land claim.'

The letter was sent to Minister Patrick Balopi in early July, but the Negotiating Team has never received any response from him. Meanwhile, the employees both of the Ghanzi and Kweneng district council were busy trying to convince the residents of the remaining six settlements to relocate, persisting in their strategy of negotiating with each household individually.

In mid-August the FPK were informed that some of the residents had signed for resettlement. The team visiting the communities of Molapo, Metsiamanong, Mothomelo, Gugama and Kikao found the information to be true. However, what made the team members most concerned were the reports of the people on how they were made to agree to the relocation. Like in !Xade, a number of people, and especially many of the youth, did agree voluntarily, mainly because they were attracted by the promises of better access to jobs. The money offered and promises for better government services have definitely contributed much to the waning of the resistance of many others. But most also felt that they just did not have any choice. The crucial argument has always been water. Invariably, the government employees stressed that provisioning of water or borehole maintenance would eventually be stopped in the settlements in the reserve. The government employees did not even refrain from using false allegations – like that one of the most influential leaders had already agreed or that 'the army will deal with' them if they continue to resist.

The methods used by the government employees on the ground contradict blatantly the official policy of 'encouraging but not forcing' the people to resettle, and the repeated assurance that all public services will be maintained also within the reserve. Whether the senior officials of the district council are aware of their field personnel's behaviour remains an open question. However, earlier critique and reported cases of use of threat have apparently never been properly investigated, or led to corrective action. And the government continues to maintain against all evidence that the people have moved voluntarily.

The motives of the government

The official reasons given by the government for the resettlement of the CKGR communities are better conditions for providing social services outside the reserve, and the conservation of wildlife. The maintenance and improvement of social services in the remote settlements in the CKGR are a difficult task indeed. And those communities who have to send their children to boarding school even for elementary level education are all but happy with that solution. Alternatives to a unified and centralised school system have, however, already been developed elsewhere among indigenous peoples. Contrary to all promises, and contradicting its own argument, the services offered at New !Xade are very poor, even worse than in old !Xade. Classes are still being held in tents, water has still to be brought in by trucks (from old !Xade, it should be emphasised), and no socio-economic programmes creating jobs or providing other opportunities for generating an income have so far been implemented. And it is hard to imagine that the government will ever be able to provide viable economic alternatives. New !Xade is not considerably less remote than old !Xade, access to education, jobs, the market and government services has definitely not improved.

The second argument, conservation of wildlife, is even more doubtful, as it contradicts the Government of Botswana's internationally much acclaimed new conservation and tourism policy, which emphasises participation of local communities. In other parts of the country the government granted the management rights over parts of game reserves and wildlife management areas to local communities. And it actively promoted and supported community managed eco-tour-

ism projects. There are private safari operators who would be ready to co-operate with the CKGR communities in eco-tourism projects. And the Department of Wildlife and National Parks has supported such plans for the CKGR until recently, when it was silenced by the superior authorities.

No wonder there exists a lot of speculation on the 'true reasons' for the government's determination to move the people out of the CKGR. The interests of the strong cattle lobby were mentioned, who would like to see the southern part of the reserve, where the Khwe communities live, opened up for grazing. And it has been known for quite some time already that the CKGR harbours diamond deposits. But only recently has it become public that two promising deposits have actually been identified. Feasibility studies are being undertaken by De Beers (who already operates two large mines in Botswana) and the Canadian mining company Falconbridge in Gope near the eastern border of the reserve. And Anglo-American has been granted a concession for exploration in 1997 near !Xade, in the west of the reserve, where a promising deposit has been discovered at Xaxa.

According to a report in the South African newspaper *Sunday Independent* of 31 August, operations have started there shortly after the people of !Xade were moved out. Both De Beers and Anglo-American, however, deny that they knew anything about the re And E. Molale, Permanent Secretary of the Ministry of Local Government, Lands and Housing, responded to the same article, maintaining that:

> *There are no mines coming up in the CKGR. You are free to verify that yourself. Prospecting happens everywhere in Botswana and, more than anything else, is meant to help understand the country's geological formation. There is nothing like mining and drilling machinery at Xade.*[4]

Still, many observers cannot easily dismiss the suspicion that the unyielding determination of the government to push the resettlement programme in the CKGR through is ultimately motivated by the aim to establish a *fait accompli* before the Khwe and Bakgalagadi communities have become better organised, stronger in defending their land rights, and seek to prevent or at least demand compensations for commercial activities and resource exploitation by outsiders on their land.

The most recent developments in the CKGR bring the government a little closer to this – explicit or implicit – aim. By November, most of the people of Mothomelo and Gope had already been relocated, some to Kaudwane in Kweneng District, some to New !Xade. The few who refuse to be resettled have decided to move permanently to neighbouring Metsiamanong. However, with only a few exceptions the residents of Gugama, Kikao, Metsiamanong and Mothomelo are determined to stay. So the last chapter in the struggle for the CKGR is still not written. And those remaining may soon be joined again by those residents of New !Xade who are already deeply disappointed by unfulfilled expectations and depressed by the desolate situation in the settlement. They are determined to demand at least the keeping of one promise given by the government: that if they don't like the life in the resettlement site, they have the right to go back.

Margareth Nasha, the new Minister of Local Government, Lands and Housing met with the Negotiating Team on 28 November 1997 in New !Xade. It is highly appreciated that, contrary to her predecessor, she seems to be willing to enter into direct negotiations with the Negotiating Team, representing the CKGR communities. During this first meeting, however, she avoided responding to the issue raised concerning those people who want to move back. It is hoped that in future meetings and negotiations the government will both stick to its promises and the democratic principles which it claims to be the foundation of the Botswana state.

[1] Khwe is these days used by the Bushmen living in and around the CKGR as a general term of self-designation. It is, however, not applicable to all Bushman groups in Botswana.

[2] C.f. Hitchcock, Robert 1996, 'Government's Decision to Relocate the People of the Central Kalahari Game Reserve', *Indigenous Affairs 3*, 1996, p. 44. The article provides a more detailed account of the establishment of the CKGR, the different government policies regarding land and hunting rights and the developments in connection with the resettlement plans until mid-1996.

[3] FPK 1997, Internal Report on the Workshop of CKGR Committee, 15-16 June 1997.

[4] *Sunday Independent* 7-9-97.

Christian Erni *is an anthropologist who has been connected to IWGIA for many years. He is presently working at the IWGIA secretariat.* ❑

Community members of Mothomelo explain to a delegation of the First People of the Kalahari how they were made to agree to the resettlement. Photo: Christian Erni

NAMIBIA

The Himba People's Fight against the Planned Construction of a Dam

The Himba people feel ignored and marginalised by their government and are becoming increasingly marginalised by current political developments.

The Himba people live in north-western Namibia and they cross over the Cunene River to the Angolan side. The area is characterised by a dry desert, arid and mountainous landscape where rainfall is unforeseeable. The 1,050 km long Cunene River is a part of the Angolan border, and it is the only river in the region that has water all year long. There is only one other river in Namibia with water throughout the year. The ecological equilibrium is extremely delicate, and the ecosystem can not tolerate great pressure. Human beings, vegetation and animals have had to adapt to the extreme situation. There is a variety of animals and plant species which risk extinction.

The government, SWAPO (South West African Peoples Organisation), is planning to build a hydroelectric dam at the Epupa waterfall in the Cunene River. Plans to build a dam at this site have existed for decades, but it is only recently, since Namibia's independence, that the plans for the dam have been made more concrete. After independence from South Africa in 1990 the government began to modernise, to 'develop' the country, by promoting economic growth. The government has plans to avoid dependency and achieve self-sufficiency, especially as concerns the former colonial power. The development plans demand energy and electricity. Among other things, exploitation of a copper mine will begin in 1999. A dam at the Epupa waterfall is considered to be a solution for the growing need for energy, especially considering the current import of coal from former colonial power South Africa.

On the Namibian side of the river, in the Cunene region, some 30,000 people live in approximately 50,000 km². The Himba people are one of the peoples in the region who will be directly or indirectly affected by construction of the dam. The Himba people are a nomadic, herding people who for centuries have adapted to the region's harsh conditions. The Himba people's movements have been cited as an excellent example of a pastural rotation system suitable for an arid, mountainous region.

The Himba people are financially independent and obtain their subsistence from cattle breeding. Their lifestyle requires that it be possible to move about through large areas in order to find grazing land and water for the cattle in the dry landscape. The Himba people are

by Terese Sveijer

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Part of the Epupa waterfall. Photo: Terese Sveijer

not considered to be economically weak. They enjoy comparatively good health and no cases of AIDS have yet been reported.

For long periods the Himba people have lived in relative isolation. The explanations are various: the extreme desert climate, the 'apartheid' system, the war of independence between SWAPO and South Africa, and the war in Angola. Earlier, the region was not considered to be an area with development potential. This separation from other groups of people made it possible for the Himba people to preserve their traditions and culture without significant influence from other cultures or global modernisation. Today, the Himba people are self- sufficient and not very involved in the market economy. The Himba people, similar to other peoples in the region, are politically marginalised. They have been excluded from the political process concerning regional development plans. Moreover, the local population is not very well educated. The majority of them do not know how to read or write, and only a limited number of them speak English, the national language.

The feasibility study

Since 1995 approximately thirty consultants have been working in the Cunene region on a feasibility study for the possible construction of a dam at the Epupa waterfall. It is a partnership between Namibia, Angola, a Norwegian and a Swedish company, Norconsult and SwedPower. The project is financed by SIDA, the Swedish International Development Authority and NORAD, the Norwegian Agency for Development Cooperation. Each of them has paid out more than US$ 2.5 million.

The project will analyse the technical, economic, ecological and social aspects of the construction of a hydroelectric dam as well as sources of alternative energy. During the course of the study the consultants have developed three dam alternatives. The consultants recommend the Baynes dam alternative, located four miles further down from the Epupa waterfall. The height of the waterfall is 200 metres (which would make it the highest dam in Africa) and the reservoir area would be 50 square kilometres. The Baynes alternative is con-

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sidered to be the most ecological and socially sustainable. The government prefers the alternative of a larger dam, with a 160 metre fall, a 380 square kilometre reservoir and a greater storage capacity: a 7,809 Mm^3 reservoir. This alternative means that the Epupa waterfall will be completely submerged by water which will inflict great damage on the area. It is estimated that both dam alternatives will produce 300 MW of electricity. At present, Namibia's electricity consumption is estimated to be approximately 280 MW. The calculations, based on current growth rates, estimate a need for 430 MW of electrical energy within a ten-year period.

'Regardless of where they build the dam, we are going to be affected. The consequences for us are the same if the dam is moved farther down the river,' responded Paulus Tjavara, chief of the Himba people in Namibia, during his visit to Stockholm in June 1997, when asked how the Himba people viewed the Baynes alternative.

The final result of the study has been postponed again and the report was finally released by the end of 1997. The Namibian and Angolan governments are going to make a decision on the dam issue by the end of January 1998. The feasibility study has been criticised both in Sweden and at the international level. The criticism holds, among other things, that:

* the Namibian government has already decided to build a dam, and therefore the co-operation aid money should be used for something other than a feasibility study;
* large-scale hydroelectric dams are not sustainable energy sources;
* the study has not seriously investigated sources of alternative energy;
* adequate studies have not been carried out on the Angolan side;
* there is not adequate communication nor consultation between the government, consultants and local population. This last group feels ignored by the government and disregarded as concerns developments in the region;
* by financing the feasibility study the controversial pre-feasibility study is legitimised;
* SIDA and NORAD legitimise construction of a dam by financing the feasibility study; and
* should the donor's money be used for a project which will marginalise already neglected groups?

The report is now finished but the socio-cultural aspects of the study are still incomplete. Social anthropologist Margaret Jacobsohn, who studied the socio-cultural aspects, ie the consequences for the Himba people, believed that it was impossible to continue the study in the prevailing climate. Since March 1997, when the government made public a declaration stating that it would build a dam regardless of the study's results, she has stopped working on her part of the study. Jacobsohn's part of the study, the most notably controversial part, is essential to obtain a complete feasibility study.

The consequences for the Himba people

The Himba people are not a homogenous, united group. There are some among them who consider the dam to be a positive development for the region. It is first and foremost the younger generation who point out the job opportunities and merchants who see a possibility to increase their business. But the majority of Himbas are completely opposed to construction of a dam. They feel that they have no need for electricity and prefer to continue living as they do now, from cattle breeding. Moreover, the government's plans to build a dam continue to remain unknown to many people in the region. Nobody knows the real consequences of building a dam, but they do know that the inhabitants in the area are highly dependent on the river.

It is not the first time that the Himba people will be forced to relocate; they have previously been victims of an involuntary relocation. *'We learned the lesson of the Ruacan dam [Ruacana is located to the north-east of the Epupa waterfall] when many people died. The same will come to pass if they build the Epupa dam,'* said Paulus Tjavara, chief of the Himba in Namibia, during his visit to Stockholm in June 1997.

The consequences of dam construction have historically proven to be of little benefit to the local population. The Cunene River is of fundamental importance for the people's way of life. A dam will flood important places of worship including ancestral burial grounds where the Himba people go to consult with ancestors, and vegetable gardens and crops which are of great importance during the dry season will remain under water. The traditional way of life requires access to land and the river. For the Himba people the negative impacts are numerous. A dam also implies other influences such as construction workers, housing, roads, a city, that is to say a commercialisation which today does not exist and is completely foreign to the region.

'It is impossible for us to give up our land. The graves of our ancestors, our sacred burial grounds and the best pasture land are here. It is also here where our cattle graze, where we have our crops and vegetable garden, and where we gather coconuts from palm trees. The region is of vital importance for our survival during the dry season. If a dam were to be built everything would be under water. We will not allow a dam to be built on our lands,' stated Chief Hikumene Kapika at a public meeting on the planned dam in Windhoek on 31 October 1996. The Himba people had not been invited to this meeting but found out about it by chance.

A dam will lead to destructive consequences for the Himba people's current cultural, economic and social structure. No people live completely isolated in today's globalisation; cultures are in constant flux and always have been. But the Himba people demand the right to participate in the processes taking place, to have the possibility to participate in and determine their development and future and to not be considered as primitive survivors of an exotic culture.

Contradictory conceptions of development

The Himba people constitute a minority who are seen as being against the interests of the state. Written provisions directly defending the rights of ethnic minorities do not exist in the Namibian constitution. The Himba people, similar to other minority groups in the region, have not been consulted about the question of development plans for the region.

Himba woman grinding ochre for body painting. Photo: Terese Sveijer

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The majority of public meetings about building the dam have been held in Windhoek, the capital, where the Himba people, for the most part, have never or rarely been. Furthermore, the Himba people have not been informed about the government's modernisation plans. It is only recently that the Himba people and other peoples have found out about the plans to build a dam, principally through NGOs and international organisations.

The government accuses the Himba people and international organisations opposed to a dam of being enemies of development. Neither the Himba people nor international organisations are opposed to 'development', the changes, but they prioritise other factors than the construction of a dam by the government. Alternatives exist. The country's modernisation is not the Himba people's priority. Cattle, the family and the clan are the most important for them.

The government's vision for development is often one-sided; everyone now has to be Namibians and wear respectable clothes, not their traditional clothes; the Himba people are considered to be dirty, bare-chested primitives, undeveloped. '*The Himba must upgrade themselves and not just remain a tourist attraction,*' wrote Sam Nujuma (Weekly Mail & Guardian 03/02/95). '*The Himbas don't want to stay like baboons. They also want televisions and light in their homes.*' Polla Brand, chairman of the Namibian electricity utility Swawek (*Weekly Mail & Guardian 03/02/95*).

Resistance

The feeling of powerlessness among those Himba people opposed to the dam reached its culmination when the vice-minister of energy and mines in Namibia, Jesaya Nyamin, made a public declaration in March of 1997 stating that it had already been decided to build a dam, and that the feasibility study will only serve to help decide which dam alternative to build. The opposition called for a meeting and formed a commission, the Epupa/Kaoko Committee (EKC). The EKC in turn named a delegation which turned to Europe to seek aid and support to stop construction of the dam. Europe was a clear objective as the Namibian government stated that it was from there that financing for the construction of the dam would come.

> *The only thing we received from our government was humiliation; that the Himba people have hanging breasts and are stupid. That is why I decided to turn to others for help. Construction of a dam in Epupa will kill people in the region; therefore, we ask for your support to stop construction of the dam. That is why we are here.*
> Chief Tjavara

> *We feel oppressed by the government of Namibia. We went to Europe to seek help from other human beings.*
> Chief Hikumene Kapika

The delegation was composed of Hikumene Kapika, chief of the Epupa region, Paulus Tjavara, chief of the Himba people in Namibia, and a female translator. The Himba people feel that it is of great importance that the world become aware of their situation and the consequences of building a dam. During the three-week visit in Europe they visited Germany, Great Britain, Belgium, Norway and Sweden which was made possible thanks to co-operation between various international environmental and human rights organisations.

Sweden was considered to be an important visit since SIDA is paying for the feasibility study, the Swedish company SwedPower is part of the consortium carrying out the study and there are many Swedish consultants employed. The visit to Sweden was organised by the Swedish national group of the International Work Group for Indigenous Affairs, IWGIA-Lund. The objective of the visit was to give the Himba representatives the opportunity to speak for themselves and present their opinions; that they be able to influence the processes which are currently threatening them and their future; as well as to have the possibility to form an opinion at an early stage, before real decisions are made. At the same time the delegation gained a better understanding and knowledge about the new situation which they find themselves in, a situation not of their own choosing and to which they are opposed. The visit to Sweden was reported on the radio, TV and in newspapers; the Namibian press wrote daily about the delegation's visit to Europe.

The delegation had interviews in Sweden with, among others, SwedPower (the Swedish engineering company participating in the consortium carrying out a study of the dam),SIDA, ministers, settlement experts, journalists and several organisations working with the environment and human rights. SwedPower maintains that they are only carrying out a study of the effects of building a dam and are not building it. SIDA is only financing the study, a basis for the Namibian government who is in charge of deciding whether or not to build a dam. Nevertheless, SIDA and SwedPower, for their part, can not shirk the responsibility that the study be carried out in a proper manner. It is also the consultants responsibility to ensure proper consultation with the local population, the Himba people.

The Himba people were promised access to all information and that their viewpoints would figure in the final report. SIDA, the World Bank and the European Union have rejected financing construction of the dam.

What will take place next...

The delegation was very satisfied with the meetings and considered the visit to Europe to be a success as they were able to speak out about their situation and seek support. They feel that the visit taught them much and strengthened them. They returned home with renewed strength to stop construction of the dam. They are going to demand a meeting with their government to present their points of view.

They also feel much safer after their visit to Europe; the police and government of Namibia know that Europe is observing what is happening to the Himba people. But about one month after their return the Himba people were victims of an assault by the police. The Namibian police forces and security police, armed with automatic weapons, stormed a private consultation between 70 Himbas and their lawyers, Legal Assistance Service. The event was repeated for two days in a row. The police based their action on

COLOMBIA

THE INDIGENOUS PEOPLES' SITUATION IS WORSENING

During the past months the climate of violence in Colombia has deepened. This has particularly affected indigenous peoples who are caught in the middle of the crossfire between the national army, paramilitary forces and guerrilla groups. In this issue of Indigenous Affairs we document the abuses which continue to be committed in Sotavento and Choco where numerous indigenes have been killed. It is feared that the threats and murders will continue in future.

Two Zenu Leaders were Assassinated and the National Director of the Colombian Indigenous Movement was Disappeared

Two important Zenu indigenous leaders from the Resguardo de San Andres de Sotavento, in the Department of Cordoba, northern Colombia, were assassinated on November the 2nd when armed men identifying themselves as members of the National Army arrived at the Community of Bajo Grande. After violently taking Bernabela Riondo Pacheco out of her home, they murdered her on the road leading from San Andres to the municipality of Chinu. Her body was found together with that of Santiago Polo, from the Achiote indigenous community, municipality of Sanpues.

Bernabela Riondo Pacheco has a long history in indigenous organisations. She has been Secretary of the *Organizacion Nacional Indigena de Colombia* (ONIC) (Colombian National Indigenous Organisation) and until her death she was a member of the executive committee of the *Corporacion Autonoma Regional de los Valles del Sinu y San Jorge* (Regional Autonomous Association of the Sinu and San Jorge Valleys).

Similarly, since 31 October Virgilio Cardenas Feria, a Zenu indigene and current national director of the *Movimiento Indigena Colombiano* (MIC) (Colombian Indigenous Movement), had been kidnapped. He was recently found in the community of Los Andes Recuperación. The leader was injured and forcibly abducted from the community by armed men in military attire.

The indigenous community of San Andres de Sotavento, through their *Cacique* (Chief) and Traditional Authority, Maceliano Suarez Lazaro, as well as ONIC demand that the national government and responsible authorities carry out thorough investigations.

Assassinations like these and those of the Embera-Katio leaders on 14 October have not produced a single response from the state's investigatory organs.

The Zenu Indigenous People Face Exile

We the Zenu are an indigenous people of Caribbean descent located between the departments of Cordoba and Sucre, in northern Colombia. We number some 56 thousand individuals residing in the *Resguardo de San Andres de Sotavento* (San Andres de Sotavento Reservation) in the departments of Córdoba and Sucre. According to the Royal Crown of Spain the reservation consists of 88 thousand hectares, and after a process of reunion with ourselves and the reorganisation of our race as an indigenous people we began the difficult struggle tó recover our lands. Despite the fact that a title-deed recognising our ownership of this reservation exists, a large part of this area still remains in the hands of large landowners in the region.

During the 1970s we organised ourselves as *campesinos* (peasants) around the *Asociación Nacional de Usuarios Campesinos* (ANUC) (The National Association of Peasant Users) with the firm objective of fighting for our territories. The result of this struggle was that 17 thousand hectares were recovered. Nevertheless, we had to pay with a high cost of life, the assassinations of important indigenous leaders were selective.

More than sixty Zenu indigenes have been killed for defending our cause and our collective rights.This wave of violence brought about by legal and illegal armed actors has had an effect on the familial and organisational well-

Chief Paulus Tjavara (to the left) and Chief Hikumene Kapika during their visit to Sweden. Photo: Terese Sveijer

the AG 23 proclamation and prevented the Himba people from holding the meeting.

Hikumene Kapika went to the Supreme Court in Namibia where his rights were recognised and indemnification for the police assault was awarded. The government has been seriously criticised by all sides, and opposition parties have charged the government with antidemocratic treatment of the Himba people.

On the other hand the Himba people in favour of the dam have not had any difficulties in being heard and making their views known in the corridors of power. It is regrettable that the authorities are acting in such a biased way, trying to exclude the great majority of the Himbas who are against the dam project. To ensure the rights and needs of all parties, an open dialogue in which all parties can participate to discuss the development of the region is necessary. The problems are complicated, and the situation does not look good for those opposed to the dam. But the Himba people are strong, proud and tenacious. We must hope that they have the strength to continue their fight to participate in 'their development'. It is understandable that a country wants to develop, but alternatives to building a dam exist. Namibia is a country with enormous possibilities. The government's motive for and method of promoting development could have been different, but it is not yet too late...

We are not going to abandon these regions. We are going to stay here, and the government will be forced to kill us one by one. We would rather die than abandon the regions where we live. Chief Hikumene Kapika

Terese Sveijer *studies social anthropology at the University of Lund, Sweden, and conducted minor field studies among the Himba people in 1996.*

being of our community to the point that International Human Rights Principles and even the fundamental principle of right to life are no longer respected. It is no longer possible to sleep peacefully at home, because there are constant threats; fear and terror have destroyed our peacefulness.

As indigenous people we are friends of peace, harmony and tranquillity, but above all human coexistence. Nevertheless, the reward we have received for this attitude is constant persecution and terror. In spite of this we continue to keep up the value and principle of maintaining ourselves as indigenes, exercising our traditional practices and our way of organisation, with the firm conviction to recover our territory, bequeathed to us by our ancestors.

For this reason and in the light of the fact that we are experiencing a difficult situation, the *cabildos* and the community in general have met in order to analyse and propose ways to find a solution through active community participation, the *cabildos* and the regional organisation. As a result of these meetings we have concluded that:

* In the light of the seriousness of the situation in our territories urgent actions are needed directed at safeguarding the integrity of the territory and its inhabitants. We are in urgent need of the International Red Cross to establish a permanent brigade on the indigenous reservation. This organisation is the only organisation with guaranteed neutrality and we place our full trust and confidence in it to advance the necessary actions to maintain security on the reservation;
* As was made known to the national public at large through our press releases, we denounce the assassinations, abuses, intimidation and threats our community has suffered. One of the main causes of the violence on the reservation is the massive presence of paramilitary forces in the region and the creation of CONVIVIR, which only seeks to destroy the harmonious and passive environment of those who do not need to live with weapons. They try to recruit indigenes in order to expand their ranks, indigenes who are later ordered to point out members of their own community;
* This is why it is necessary to begin a dialogue between paramilitary forces and other armed actors present in the region and the regional indigenous organisation.

To do this the presence of the International Red Cross, the ombudsman, the National Reconciliation Commission, the Church, Nobel Peace Prize winner Rigoberta Menchu, the Office of the Public Prosecutor, the Presidential Human Rights Commission, the indigenous Senators Lorenzo Muelas and Gabriel Muyuy, the Ministry of Interior and the Colombian National Indigenous Organisation (ONIC) are needed in order to institutionalise the dialogue process and so that they can serve as guarantors of the accords favourable to the Zenu community.

In order for the above-mentioned to become a reality the necessary guarantees must be offered including the freedom to mobilise of the *Cabildo Mayor*, smaller *cabildos* and leaders, and the active participation of the reservation's members.

At the same time we are making commitments to further the internal process of strengthening our organisation, designed to exercise social control on our territories, thus ratifying our autonomy as traditional authorities with the capacity to resolve our internal affairs according to our traditions and in an indigenous context.

We call on all indigenous organisations in the country, American indigenous organisations, human rights groups and NGOs to show solidarity with the Zenu people by denouncing the serious threats which our communities face from armed actors who have created a war that is foreign to our communities.

For Life, Peace and Tranquillity. Success for the Zenu People. San Andres de Sotavento, 11 November 1997
Signed by the traditional authorities of San Andres:

* Cabildo Mayor de San Andres de Sotavento, Cordoba-Sucre
* Cabildo Menor de San Antonio Abad de Palmito
* Cabildo Menor de las Piedras
* Cabildo Menor de Reparo, Sucre
* Cabildo Menor de San Jacinto, Sucre
* Cabildo Menor de La Granja
* Cabildo Menor de San Juan de la Cruz
* Cabildo Menor de Comejen ❑

Urgent Action for the Embera, Wounaan, Katio, Chami and Tule Peoples from the Department of Choco, Colombia

The more than 50,000 members of the Choco Regional Indigenous Organisation Embera Wounaan (OREWA), formed more than seventeen years ago by the Embera, Wounaan, Katio, Chami and Tule peoples, live in the Department of Choco. The region is known worldwide for its rainforests containing extensive biodiversity.

We have organised ourselves so that we can become recognised as peoples with the right to continue existing and in order to fight for an honourable life. To attain this our struggles have focused on recognition of our territories and development of educational and health programmes in accordance with our needs and culture.

For several years the Choco Regional Indigenous Organisation Embera Wounaan has been calling on those institutions concerned with the indigenous peoples of the Colombian Pacific's territory problems so that through a process of joint reflection we can find solutions to our peoples' needs and territorial rights.

We are especially concerned with defining and putting into practise clear and coherent policies which recognise territorial, social and cultural rights, together with the rights of other groups, within a framework of contact and mutual enrichment.

We have worked so that without being partial, we can plan actions to achieve territorial recognition for our peoples and our friends and neighbours as a first step towards creating our own proposals for self-development. These proposals should be suitable for the region, fit into a general framework of respect for difference and be designed through coordination and dialogue with different social and governmental sectors. But, as the Choco department is of great geostrategic importance, not only for its biological richness but because it has coasts on two oceans, large-scale infrastructure work is being planned for the area including highways and oil, mining and forest exploitation. This has caused our territory to become a battlefield where different forces seek to gain economic, political, territorial and military control. The result is that, similar to the rest of the department's population, the Embera, Wounaan, Katio, Chami and Tule peoples have found themselves in the middle of the conflict, in a position of serious vulnerability.

Faced with this situation the indigenous peoples, together with our organisation, have responded by demanding our autonomy. Autonomy should be understood as the right of indigenous peoples to govern in our own lands; to see, feel and conceive of development in accordance with our culture. It should be remembered that we have never been dominated nor conquered, and we have never ceased to fight for recognition of our territorial rights even though we had to retreat to the central and upper river and stream areas which criss-cross the entire Pacific region where we recreated our culture as free peoples.

To achieve this we have drawn up several proposals centred on territorial organisation, based in the first place on total control and full use of our territories and the resources found there. Secondly, we have planned that sustainable use of these resources will continually satisfy all of our vital needs, but in accordance with our thoughts and actions which view land and territory as the mother, the source of our existence and the sustainer of our future. And, in the third place, this territorial organisation is based on the imperative that we have to reformulate inter ethnic relations taking place on our territories, as well as intercultural relations with the rest of the country.

However, we are also well aware that throughout our history we have counted on the support and solidarity of peoples, organisations and individuals who believe in freedom, justice and peace and who understand our right to be peoples with a future and dignity.

Today, surprised by the avalanche of complex situations which cause us to doubt and fill us with pain, we need friendly voices and support to help us continue advancing in this region of Colombia which is so wreaked by gregarious human rights violations of the inhabitants and in particular the rights of ethnic indigenous and black groups. The majority of the population in Colombia continues to disregard this situation, and the interests of big business and the government are prioritised which leads to restrictions and the imposition of self-censorship.

Indigenous communities reach all corners of the Choco department and this is why the situation we are experiencing is so complex. The violence hits us everywhere and affects all communities.

The different types of violence, pressure and blackmail affecting us are:

* Economics based exclusively on the extraction of natural resources;

* The Colombian government's plans to carry out large-scale infrastructure projects;
* The lack of coherence and political will of the different state organs concerned with policies which recognise indigenous peoples' rights;
* Repression suffered by the indigenous population which impedes free passage through our territories and the circulation of products and medicine;
* Disrespect for our authorities and organisation by representing them as members of one or another faction;
* Physical abuse of our women and the killing and disappearing of leaders and members of our communities;
* Recruitment of members of our communities by different sides of the armed conflict.

We are peoples who are convinced that violence can not be brought to an end by more violence, as some politicians and union leaders believe; they march for peace armed with hate, egoism and personal interests. For us, violence is only ended when everyone is joined in consensus and agreements which benefit the majority.

We believe that peace is not the objective but rather one necessary condition for peaceful self-fulfilment in our communities. To achieve this we need social justice and respect for others in order to be able to enjoy the state of well-being which an honourable and humanising life grants.

The turn to violence, in all its forms, exhorts peoples, organisations and individuals sympathetic to the Choco indigenous peoples' cause to address our nation's leaders:

* Ernesto Samper Pizano
President of the Republic of Colombia
* Carlos Holmes Trujillo
Minister of Interior
* Gilberto Echeverry Mejia
Minister of Defence
* Gustavo Gómez Méndez
Attorney General's Office
* Jaime Bernal Cuellar
Attorney General's Office
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Bartolomé de las Casas Prize

The jury for the Bartolomé de las Casas Prize met in Madrid on 16 December 1997 and decided to award the 1998 prize to the U'wa indigenous people in Colombia in recognition of their fight to defend their territories in the face of threats by oil companies and to Mr Sidney Possuelo for his support for indigenous peoples in Brazil.

The Bartolomé de las Casas Prize was established by the Spanish government in 1992 and has been awarded to various indigenous organisations and individuals who have stood out for their work in support of indigenous peoples on the American continent.

The 1998 jury was composed of: Fernando Villalonga, Secretary of State for International Cooperation and Latin America; Eduardo Gutiérrez, Director General of Foreign Affairs for Latin America; Román Oyarzun, Director General of the Secretary of State's Gabinet for International Cooperation and Latin America; Diego Azqueta, President of WATU; Julian Burger, Coordinator of the UN Indigenous Rights Commision; and Alejandro Parellada, IWGIA. ❑

AUSTRALIA

Going Forward or Going Backward?

by Olga Havnen

Aborigine flag tattooed on the arm symbolising the will to fight for rights and recognition. Photo: Hanne Miriam Larsen

Introduction

On behalf of Aboriginal and Torres Strait Islander people in Australia, I wish to greet and thank the Sámi and Norwegian people involved in bringing about this conference[1]. The NGOs and government of Norway are especially to be thanked for their initiative and sponsorship.

Indigenous relations with governments seem alarmingly similar in Australia, Norway and Canada. In two days Norwegians face a national election. We hear that northern Norway has seen a backlash against Sámi rights; that the consensus painfully achieved by the Sámi Rights Committee and by Sámi leaders with Prime Minister Brundtland in the early 1980s is in danger; and that northern rednecks are trying to bend a new prime minister to their old ideas.

We have much bitter experience of this type in Australia. An election in recent weeks in my home 'state', the Northern Territory (NT), was won by a party with a frankly anti-Aboriginal campaign. They have stayed in power since the beginning of Northern Territory self-government in 1978 with this tactic. Today, we see such crude prejudice in Australian politics. Instead of being stamped out, it is being picked up by the federal government and other states. Believe me: it is a cancer. You must take it seriously and stamp it out before it infects your whole society. In Australia it is now too late.

Canada and Australia are two countries so similar in law, constitution, history and geography that there is much scope for learning from or adapting each other's experience. Australia, in recent years, seemed to have a changing atmosphere for indigenous issues, one starting to catch up with Canada. However, during the national election campaign of February-March 1996 there was an outbreak of racial slurs in Queensland. At the time the Liberal and National parties seemed anxious to prevent such things and acted firmly. Since they won the election, however, Aborigines, Torres Strait Islanders and organisations working with our peoples have been repeated targets. It seems strange that while Australia celebrates the defeat of Hitler's Germany and Japan loudly and constantly as great moral victories, post-war global commitments against racism have not been well remembered.

We hear that Canada has not yet committed itself to the proposals of the Royal Commission on Aboriginal Peoples. We hope that this delay is merely temporary. As we have learned to our cost in the past 18 months, indigenous reform impulses are not secure if only dependent on the goodwill of current politicians in power. Structures, processes and enforceable rights are needed, as well as adequate funding.

Meanwhile, we must recognise that indigenous rights conflicts are similar everywhere. They are not so much matters of local culture as universal struggles between powerful majorities and marginal minorities. The fact that the governments of our three countries are present today holding this conference with human rights and indigenous groups is a good sign. Perhaps the most important thing we can do here is show our governments - that is, those politicians and officials who do not attend human rights meetings - that making indigenous minorities scapegoats for the passing insecurities of affluent majorities is undesirable and unacceptable.

If highly educated, wealthy, fortunate countries like our three will not maintain standards, what can we expect from poor countries and brutal governments? We cannot simply pass resolutions for other countries to obey; we must practice what we preach. Norway, Australia and Canada will only be as effective in human rights as their own example.

Land, freshwater, sea and resource rights

The main Australian indigenous issue today is native title to lands and seas. On 4 September the federal government introduced hundreds of pages of amendments to the 1993 Native Title Act. Their

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purpose is to extinguish most of the Aboriginal rights recognised by the High Court in all but name. The *Mabo* decision of 1992 and *Wik* decision of 1996 acknowledged our rights. Now, after two hundred years of European 'settlement' - or invasion - Australian politicians are completing the task by overriding their own courts.

In northern Norway and across northern Canada, you have great reindeer or caribou herds on which indigenous people rely for their livelihood and food, with developers, builders and settlers coming in and interfering with this indigenous way of life. In Australia we have settlers who brought great herds of animals, mostly cattle and sheep, into Aboriginal homelands in even the remote areas of the continent. These settlers shot the Aborigines (often with official support), gave them poisoned flour, enslaved them or displaced them. Sometimes they took them on as an underpaid workforce, and sometimes they treated them reasonably well. These indigenous peoples were sometimes entirely wiped out, but sometimes were able to find a way of maintaining their traditions and culture in conjunction with the cattle industry.

It was no matter that the land for grazing was often unsuitable! Australia's droughts and desert conditions have not deterred the white man from conquering the earth. Instead, cattle farmers would get larger and larger areas - a few cattle might occupy an area the size of Belgium just to get enough to eat, this being a single cattle property. The cattle farmers, with their many imported animals which have run wild, have destroyed the ecosystems of the country. Hard hoofed cattle, donkeys, horses and camels have broken up soils and eaten plants driving native species of flora and fauna to extinction. Ask any Australian environmentalist what the main problem in Australia is. The answer is always the same: land degradation.

So, Aborigines who have survived somehow on the edge of the great cattle stations or on the edges of small towns, usually in vile conditions, are now scapegoats for Australia's terrible current drought, for the lunacy of historical land policy, and for the stubbornness of cattlemen in areas where cattle have no place. We are now also scapegoats for governments which are distrusted and unpopular in rural and remote areas. That is, with the rural economy in crisis and various unpopular recent policies, governments can now blame Aborigines and bring in punitive new laws. They can deflect white anger at governments against Aborigines.

Meanwhile, governments show maps to terrify the non-Aboriginal community. They say Aborigines are trying to take over 80% of the country. They talk about how Aborigines may claim suburban backyards. Instead of showing moral leadership in upholding law, explaining law and rights, and conciliating legitimate interests, governments have found it easier to join white scare campaigns and blame Aborigines. Aborigines, already the poorest, sickest, least educated, least influential and most early dying section of the total population, are now to blame - we are told - for whatever is distressing white Australian families. The rhetoric of the Howard government on Aborigines and Aboriginal organisations since coming to office would be unacceptable in other 'first world' countries.

The report on world environment by Norway's recently retired Prime Minister Brundtland called on Australia and North America, among others, to build their territory and environment policies on a base of indigenous resource management and empowerment. The land claims settlements of northern Canada are attempts to do that, while in Australia the final dispossession of Aborigines seems the policy and purpose of governments. However, as you will see, this is not the only attack on indigenous peoples and their future in Australia today.

The situation across the north, centre and west of Australia does have its ironies. Universities and science organisations are now sending fine young city people for Master's and Doctor's degrees to the farthest corners of the country to study how Aborigines managed land and environment. It is recognised that the country is in trouble, so now, too late in many areas, Aboriginal knowledge is being sought by whites. It is strange to see these eager young people driving by in great 4-wheel-drive vehicles with top-notch air-conditioning to begin their work. Often, they drive past the ruins of local Aboriginal peoples, sick or dying in their camps by the side of the road, living under bits of metal or green plastic garbage bags. Although Aboriginal environmental knowledge is a new enthusiasm in Australia, poor Aborigines are not.

The case of Northern Territories

The Northern Territory (NT), like Canada's northern territories, is first and foremost a homeland of Aboriginal peoples. This is obvious to any visitor and is exploited for tourism by the government. However, like the totem poles of British Columbia, the rock art galleries of the NT sometimes seem as if made by aliens who returned to another planet, so absent are they from government interest. Nearly a quarter of the NT population are Aborigines, half the NT's lands are Aboriginal-owned, and more than three-quarters of the seacoast is in Aboriginal hands. However, the NT has been run by the same populist right wing pro-development and anti-Aboriginal governing party, the CLP, since before the Territory gained self-government in 1978. At each election, such as the one in August 1997, there is the same issue: a campaign is whipped up over 'the blacks' allegedly threatening the property and future of the whites.

The white population who control the NT are constantly changing. Very few of them actually spend many years in the NT, but the CLP can win the vote of those present on election day with its anti-Aboriginal rhetoric and ideology. Since the mid-1980s the CLP has been demanding that the NT become a full Australian state. The two main and most often stated reasons given are to take over Aboriginal land rights from the federal government and to take over the two large national parks, Uluru (Ayer's Rock) and Kakadu, which are leased by Aboriginal owners to the national government. The CLP believes that rapid NT economic development and a population boom would accompany their take-over of Aboriginal land, despite the fact that much of the land is desert or land which whites did not want in the first place.

It will be outrageous if the Australian government hands over Aborigines and their lands to another government they

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distrust, the NT government; a government which has long vowed to diminish Aboriginal rights; a government over which they have no influence. Yet this is apparently what the Howard government intends to do. Australia would criticise any other country in the world which blithely transferred a population and territory against its wishes to another jurisdiction. We will be asking the world to help Canberra recognise its obligations on indigenous self-determination in this matter.

Meanwhile, an inspiration to indigenous people in Australia, as in Norway, has been the reform in Canada's northern territories entrenching indigenous rights and 'regional agreements' and creating self-government structures friendly to indigenous custom and culture. The active role of the Canadian government in brokering peaceful and just outcomes rather than giving in to archaic prejudices of northern whites has been exemplary. This is very different from Australia's Northern Territory. Indeed, indigenous organisations, governments, and researchers in Norway, Canada and Australia have been increasingly looking at the indigenous politics in those three countries relative to each other.

Another emerging northern territory is Torres Strait, a region of Melanesian-peoplesislands off the north-east corner of Australia. This month a parliamentary inquiry tabled its report on the region's political future, a document important for indigenous autonomy. It made proposals to overcome the administrative proliferation of offices and fragmentation of authority, and to consolidate the federal Australian, Queensland state and regional authorities for the Islands. A single Torres Strait Regional Assembly is proposed to serve the 6000 Torres Strait Islanders, more than 500 mixed Aboriginal-Islander people, and 2000 others including many of Asian background. Most of the non-Islander population live on Thursday Island, the region's administrative and supply centre, and its immediately adjacent islands, the most racially and culturally mixed population in Australia. The report foresees further political movement, possibly to self-governing territory status like Australia's other inhabited islands, Norfolk, Christmas and Cocos-Keeling. In several places the report draws on Inuit experience in Canada's new territory, Nunavut.

Torres Strait Islander leader Getano Lui, Jr. made his principal presentation to Australians of his people's and region's proposals immediately after a visit to northern Norway. His central message was that

> *The principles for Torres Strait constitutional renewal are simple. We need to be able to make decisions about social, cultural, economic and environmental matters in our region, not just have the right to attend advisory meetings which may, or may not, pass our ideas up the line. We need real control of staff and office budgets, not the appearance of control as through ATSIC. We need the means and facilities to secure and develop our culture.*

Mr. Lui had also found inspiration in talks with Sámi leaders on fisheries issues and in a visit to the Sámi fjord township, Kafjord. Like all visitors from Australia or Canada, he was impressed by the living standards, health and levels of public services and facilities enjoyed by Sámi and all other northern Norway residents. Those standards are very different from the grim conditions across northern, western and central Australia in indigenous communities. The policy of the Australian government had been 'to throw money at problems it scarcely believed can be resolved', said Lois O'Donoghue, founding head of the federal government's ATSIC indigenous administration, shortly before her retirement in 1996. She could have added that the amounts of money being thrown are not sufficient to change the situation.

Social policy

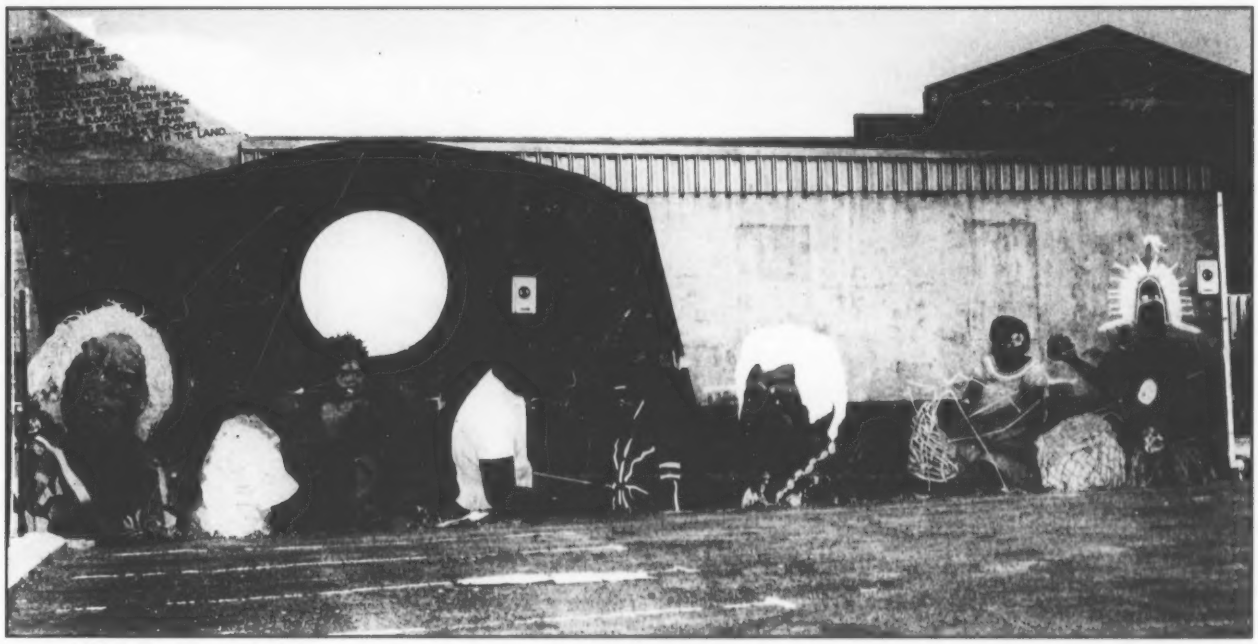
The social issue most discussed today is stolen children. Tens of thousands of Aboriginal children were taken from their mothers, often in a brutal manner reminiscent of the century's horrors in European wars. They were separated for decades or forever from their families and raised in white homes or institutions, often suffering abuse, violence, neglect and unending discrimination. The scars these outrages have left on individuals and families, and on the present Aboriginal leadership, many of whom were stolen children, is beyond recounting. The resulting horrors, the deaths and suicides, and the family problems are with us daily. A national inquiry created by the government has concluded that Australia breached international genocide and other standards in attempting to bring about the early demise of the Aboriginal race. As the news of the inquiry's findings seeped out at the end of May 1997, key government leaders added insult to injury by their callous and offensive remarks. The notion of an official apology to indigenous people was attacked, often by the same individuals who are loudest in demanding apologies from Japan for ill treatment of prisoners of war.

I will not dwell on the stolen children issue because the subject is too near to me personally and to those closest to me. Suffice it to say that the issue is a gaping wound inAboriginal life and identity today, and that the government's response to date belies its platform of 'compassion' and 'family values'. When the furore over the stolen children report was at its height in May, one senior federal minister who knows indigenous needs well had the courage to say on television that the Australian people, unfortunately, did not yet understand the need for apologies and remedial measures. The tragedy is that many in Australian governments today, including their dominant figures, not only 'don't know', but don't want to know.

Meanwhile, for countless Aborigines and Islanders the daily social issues are poor or lacking health, nutrition, clean water, jobs, housing, education and training, and treatment by police and the justice system. The success of the government in transforming the living conditions, infrastructure, public services and opportunities of the Sámi and non-Sámi people in northern Norway is an example to us all. Why have Australia and Canada failed in so many locations, and sometimes in whole regions, to do likewise?

The role of national governments

Australia has broken the pattern of overseas colonies in the former British Empire which saw central governments inherit from London's imperial authorities the protection of indigenous peoples. The purpose of this was to avoid the worst



Aboriginal wallpaintings - an example how the indigenous Australians emphasize their presense politically and in arts. Photo: Hanne Miriam Larsen

forms of settler violence against indigenous peoples whose lands they wanted. Although such approaches never worked well enough, they gave Canada and the USA a legal and political legacy of nationally protected indigenous lands - that is, protection against the land and resource development powers of the provinces and states. Despite intentions in London to provide similarly for Aboriginal protection, the sheer distance to Australia and greed of the settlers saw the policy fail.

Until 1967 the Australian national government could not play a part in Aboriginal affairs. In that year a national constitutional referendum overwhelmingly gave the federal government a paramount role. This change has given some help and hope to indigenous peoples but by no means enough. In recent years governments in office have tended to view the new power as an option rather than an imperative. The present Australian government firmly believes that indigenous affairs are largely a matter for the states.

In recent months a unique new book has shed light on how one state, Queensland, has exercised its indigenous role. Titled *The Way We Civilise*, Dr Rosalind Kidd draws on the full range of government files to provide a complete history of indigenous policy. The story is shocking and outrageous, and should be read by anyone who wishes to understand indigenous problems in Australia today. Essentially, white officials made Aborigines - and, to a lesser extent, Torres Strait Islanders - a separate and isolated group with no rights and too little food and health to survive as more than a marginal population on the verge of extinction. They were moved around, families were split up, or relationships were banned, at the whim of a handful of white overlords. The historical case of Aborigines in Queensland has more in common with American black slavery and anti-Jewish restrictions in Nazi Germany (though stopping just short of Holocaust extermination). It is no wonder that South Africa found the inspiration for its apartheid policy in Queensland. In recent years special inquiries have highlighted continuing crises in Queensland's indigenous communities, problems which would not be tolerated in any other 'first world' country.

Today, Queensland, Western Australia and the Northern Territory have governments which have learned that they must not persecute indigenous peoples openly, so it is done more artfully, subtly. Unfortunately, there is not always much of a choice between the political parties either - Labor's fine talk in opposition has not always been so fine when they form state governments. In these three states the defiance of the United Nations and international public opinion is a popular sport in political debate and action. It is almost considered fun to bulldoze World Heritage rainforest, pass extreme laws violating international human rights standards to control black youth, or smirk while mouthing the right words about racial equality. These same state politicians are assiduously polite, of course, about Asians - another target of political populism in Australia - when visiting the great cities of the East and South-East Asian economies to seek trade, investment and tourism.

Norway and Canada have modernised their indigenous policies, however grudgingly, in no small part because national governments had to recognise world opinion and world rights standards. In recent years Oslo and Ottawa have brought reluctant regional governments

and party barons to heel in the interest of the country's international integrity and image. In Australia the federal government hides behind federal-state sharing of sovereignty and the remoteness of the country from world scrutiny and TV crews to avoid fulfilling its obligations.

Some Australian achievements

Australia has some notable innovations. The most promising may be the indigenous-run 1994-95 process of community consultations around the country combined with expert seminars and long workshop-style discussions to produce what amounts to a national indigenous policy, one devised almost entirely by indigenous peoples. The Prime Minister had invited proposals for 'an indigenous social justice package', and received three overlapping reports produced in a pressure cooker environment. Initial funds had been made available to continue work on the proposals when the government changed in 1996. Unfortunately, the Howard government views most initiatives dating from the Labor years as tainted. Nevertheless, the indigenous social justice proposals represent a moderate and practical consensus on a rights and political agenda. They are a virtual necessity for any indigenous future and will not go away.

The land rights achievements in the Northern Territory and the Pitjantjatjara lands of north-west South Australia have been significant. There has also been a great deal of study and writing done on the legal, environmental, social and traditional aspects of the Aboriginal land rights regimes in the arid and wet/dry Tropics, and in areas still seeking such, providing important world research literature.

The role of Aboriginal and Islander arts and motifs in Australian life has been considerable in recent years, if not yet as central to national life as in New Zealand. Very ancient as well as modern Aboriginal art is a major element in Australian tourism, although not yet as beneficial to indigenous peoples themselves as is desirable. The listing and protection of indigenous sacred and other indigenous heritage and environmental sites is a quietly improving area of public policy and programmes which seems well in advance of practice in Norway or Canada. Unfortunately, this area also provides occasional high profile and inflammatory local conflicts which enable opponents to depict indigenous peoples as threatening white jobs and public revenue.

Needless to say, there are many inspired and successful local initiatives and programmes in Aboriginal and Islander communities dealing with everything from solar power to sewage treatment, social ills to spiritual renewal. The vast number of distinct cultures and traditions which make up Aboriginal Australia make political co-operation and consensus sometimes difficult to achieve, but they also provide infinite variety of examples and experiences of possible interest to indigenous peoples abroad. The visitor from Norway or Canada will find in Alice Springs or Darwin an ideal starting point for experiencing a full range of cultural, social, political and economic - as well as urban, rural, desert, and rainforest - indigenous responses to conditions ancient and modern. There is more and more indigenous and 'eco' tourism based in those two centres to provide a visitor with as much comfort or as much physical challenge as anyone could desire.

Concluding remarks

Australia's governments and much of the public today regard indigenous rights, culture and aspirations as a frivolous national fashion devised by a few mischievous blacks in league with some Labor-voting urban intellectuals in the 1980s and 1990s. There is almost no recognition that in other 'first world' countries, parties of the Left, Right and Centre have supported and implemented such political reforms over past decades; or that new recognition and value are now given to indigenous cultures, sustainable development and political imperatives world-wide. The greatest benefit for Australian indigenous, research and official bodies in regular contact with countries like Norway and Canada would be to confirm in Australia the direction and development of world standards. Meanwhile, the Prime Minister has publicly denounced the contacts of my own organisation in Europe as a 'stunt'.

Let me quickly note four areas of immediate practical need for co-operation among indigenous peoples in our three countries.

1. The same mining companies, most dramatically diamond miners, are working in Aboriginal Australia, northern Norway (and other parts of Scandinavia), and northern Canada. Those companies are not shy about sharing experience, and it may be urgent that indigenous peoples do so too;

2. Coastal and marine management needs and dangers from pollution are a major indigenous issue around Australia, especially on tropical coasts and in the Torres Strait Islands. Despite studies linking Australian needs to northern Norwegian and Canadian Arctic and Pacific coast experience, and recommendations for an international workshop among these peoples to share ideas, no real advance has been made;

3. Regional land (and sea) claims settlements in Canada are increasingly seen as models for wider indigenous policy and constitutional roles for what Australians call Aboriginal and Islander 'reconciliation'. In Australia such agreements are much discussed but seem to become narrow and limited as the debate progresses, while the Canadian models grow larger and more hopeful. Norway, too, is hotly discussing possibilities for indigenous territory in the north. Why not share ideas?

4. Norway and Canada have amended their national constitutions in the 1980s to enshrine new relationships with indigenous peoples. Since the late 1980s Australian governments, many experts, inquiries, public interest groups, and Aborigines and Torres Strait Islanders have recommended indigenous recognition in an amended Constitution. Sharing experience would be useful.

All these items, and many others we could discuss, imply a temporary new relationship between indigenous peoples and nation-state governments. The point has been well made by Norway's long-time Sámi leader and now Sámi Parliament president, Ole Henrik Magga:

The idea of a nation-state as a culturally homogenous group that could assimilate and oppress minorities is not acceptable. It means decimating the cultural richness of our planet, to which public opinion is increasingly sensitive. Even from a cynical viewpoint, it is in the best interest of states to put an end to this policy. The alternative will lead to major conflicts that will only upset the very stability of states.

A compromise has to be struck between cultural groups and the nation-state. ... It means that the state become a sort of federation of cultural groups responsible for guaranteeing both individual rights and collective cultural rights. This involves rethinking the notion of the state. In the event of conflict, the international community must have the right to interfere in internal affairs through a mechanism that remains to be created under the auspices of the United Nations.

Similarly, Canadian political scientist James Tully, considering the emerging experience of Canada and other countries, has described and proposed acceptance of today's society as a *Strange Multiplicity*. At present, Professor Tully is travelling and speaking in Australia about the reconciliation or accommodation of indigenous rights and peoples within nation-state political and administrative structures: `

The irony today is that we have in Australia political leaders who do much to make Aborigines, Asians and other minorities political targets to benefit their own parties, while at the same time loudly claiming that Australia is the most tolerant country on earth. One positive sign is the many non-indigenous people and public figures now speaking out about indigenous issues in support of Aborigines and Islanders against governments. We must hope that such people, with information and inspiration from abroad, can help stop Australia's slide back towards its historical racism towards Aboriginal people. Chile and South Africa have recently rejoined the world after bouts of repression; Australia needs the help of the world to avoid becoming a new pariah in the Southern Hemisphere.

To conclude, I have had a very special reason for feeling privileged to speak at this conference. Although my mother is from Central Australia, my father comes from Norway. Perhaps I can tell you that I have a very special reason for urging Norway to continue its outstanding work in the world on indigenous and other human rights issues. You have been showing the way to many countries and governments in these matters for many years. Please don't turn back or change direction now when needs around the world are greater than ever!

[1] This paper was presented at the 'Network Conference Between Representatives of Non-Governmental Organisations (NGOs) and the Governments of Australia, Canada and Norway, *An Effective Human Rights Policy*' 12-13 September, 1997 Oslo, Norway. References and footnotes have been left out in this article, but they are available in the original paper which can be acquired at the office of IWGIA.

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A New Maohi Initiative Against French Nuclear Colonialism in 'French' Polynesia

by Martine Pétrod

At the beginning of 1996, France officially ended its nuclear testing programme in Polynesia and finally signed the Rarotonga Treaty that had forbidden nuclear testing in the Pacific since 1985. But since, France has not made any serious efforts to improve the situation of the Maohi people, neither with regard to the nuclear, nor to the colonial legacy of 30 years of French testing.

The nuclear legacy is more than 130 holes containing the radioactivity generated by the explosion of as many nuclear bombs in the fragile underground of Moruroa-atoll which might leak out and contaminate the ocean and the islands. There are also the effects of the fallout from the atmospheric tests on the environment and the health of the local population. Because of military secrecy, no credible information on environmental or health hazards is available.

Polynesia is left with a non viable economy as the local economy, since the 1960s and the arrival in Polynesia of the C.E.P. (Centre d'Expérimentation du Pacifique, i.e. the French military's nuclear testing centre), has been replaced by the 'bomb economy' where about 45% of the economy is directly based on French military activity and another 45% is dependent on other French government expenditures and grants, while only 10% is generated by local activities. Although the present economic system benefits certain groups, a large portion of the Maohi people has been marginalised and has no place and no future in it.

Moreover, during the same period and under the influence of an increasing number of French immigrants furthering the French system, Maohi culture, language and social system have also been marginalised, so that so-called 'French' Polynesia, in spite of a modernised political system, still can be regarded as something as anachronic as a 'colony'.

The shock created by the decision of the French president Jacques Chirac in June, 1995, to resume nuclear testing in 'French' Polynesia, the inability of the Maohi people and world opinion to prevent the blasting of six new nuclear bombs under the atoll of Moruroa in spite of their huge protests, and also the frustration over the lack of unity within the Maohi movement itself, urged a group of Maohi people with different affiliations (i.e. trade union, church, independence movement and NGO) to take a new initiative aiming at renewing and uniting the Maohi people's struggle against nuclear colonialism.

The group, 'Collectif de la Déclaration de Tarahoi', achieved its first goal on January 27th, 1997, when the 'Tarahoi Statement' was signed at a public ceremony held on Tarahoi square in the heart of Papeete, the capital of 'French' Polynesia, by a great number of local personalities from political parties and NGOs, among them Gabriel Tetiarahi, the national coordinator of Hiti Tau (National Council of NGOs), and Oscar Temaru, leader of the Tavini Huiraatira (Independence Party).

The date of the signing ceremony was set to coincide with the closing of the 'Abolition 2000' International Conference for the Abolition of Nuclear Arms' hosted by Hiti Tau in Tahiti and Moorea from 21-28 January, and most of the delegates of the international conference, coming from all over the world: Palau, Marshall Islands, Hawaii, Tonga, Fiji, Samoa, Aotearoa (New Zealand), the Philippines, Japan, USA, France, England, Germany, Denmark, Norway, Hungary and Israel, also signed the Tarahoi Statement in support of the Maohi initiative. The Tarahoi Statement is printed below.

***Martine Pétrod**, cand.phil., studied linguistics and anthropology at the University of Lund, Sweden. She established 'The Copenhagen Foundation Against Nuclear Tests' in 1980 and has since been working on Pacific issues, especially on the antinuclear and independence movement in co-operation with local organisations.*

Those who wish to have more information or who want to express their support can contact:

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The Tarahoi Statement

Initiated by the Maohi people at the 'ABOLITION 2000' International Conference for the abolition of nuclear arms on the 27th of January 1997, Tahiti

'Barefoot on desecrated soil'

Following the 'irrevocable decision' of 13 June 1995 on the resumption of nuclear testing at Moruroa and Fangataufa ... from Tahiti, Moorea, Huahine and numerous other islands as far away as Mangareva, we all had a dream aroused: Stop the first test at Moruroa scheduled for September - it was possible! Then, for more than three months, we marched, and marched, and marched some more. Although the spirit of peace was guiding us, the spirit of Unity disappeared bit by bit. We forgot that although each wave is different, the ocean must be one, and our dream faded away.

The first test took place on 5 September 1995. The next day, the youth of Tahiti stood up, like any other young people would do, letting lose their rebellion and anger, Our anger. In a media show, misplaced if not obscene, the C.E.P. nuclear testing centre broadcasted the Thétys-test on television, 'the rape of our Mother Earth' live on TV. This is the origin of this Formal Statement, a return to the timeless values which we have inherited from our ancestors.

Preamble

The inalienable right to land, self-determination, sovereignty and independence is crucial in allowing all peoples of the world to join in the common struggle to rid the planet forever of nuclear weapons.

1. To make people acknowledge that nuclear weapons must be abolished, as a weapon for crimes against humanity, future generations and the planet Earth; our one and only Mother.

2. To highlight that, after the Comprehensive Test Ban Treaty (CTBT), we need to constantly denounce nuclear apartheid which can only be ended by the signature of a treaty for the total elimination of nuclear weapons by all states, without distinction.

3. We denounce, in the light of the thousand suns of Hiroshima and Nagasaki, the possession of nuclear weapons, which serves as preparation for war crimes, and is a crime against humanity, future generations and the planet Earth.

4. We affirm, in the light of the thousand suns of Hiroshima and Nagasaki, that nuclear weapons are in total contradiction with existing international conventions which attempt to protect civilian populations in times of war.

5. We denounce peacetime testing where civilians and technical staff were regarded simply as guinea pigs. All possible light must be shed on these barbaric acts, wherever they took place - and those responsible must be brought before national and international tribunals.

6. We denounce the five superpowers, individually and collectively, for their shameful and calculated nuclear colonialism. And we, as Polynesians, accuse France of nuclear colonialism, even going as far as limited genocide.

7. We accuse France of having taken possession through colonial means of the sites for the Centre d'Expérimentation du Pacifique (CEP): the two atolls of Moruroa and Fangataufa.

8. We accuse France of submitting local authorities to legal manipulation in an attempt to shield itself later on at the level of national and international law. This cannot prevent legitimate recourse for the people of 'Te Ao Maohi'[1] or block compensation owed to nuclear victims, whether individually or collectively.

9. We accuse France of concealing the real state of health for former workers at Moruroa and Fangataufa and for the population of 'Te Ao Maohi'. We call for the organisation of an epidemiological study, guaranteed by the World Health Organisation (WHO) or other bodies whose authority is unchallenged, and carried out by non-governmental organisations. This would create, on the one hand, the basis for a more objective approach to this reality, and on the other hand, it would serve as the working basis for a compensation commission to pay compensation to the victims and/or their descendants.

10. We accuse France of the crime of rape of Mother Earth. The debt to be paid cannot be reduced and will remain as long as radioactivity represents a threat to future generations.

11. Finally, we deplore the incapacity to act for more than fifty years - of the United Nations (UN) on the ethical and moral level, the International Atomic Energy Agency (IAEA) on the technical level - in the face of the inadmissible pressure and the blackmail exercised by the five nuclear powers.

However, we wish for the 8 July, 1996, decision of the International Court of Justice on the legality of the threat or use of nuclear weapons to be the first step in the process that the Court mandated to bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

And we ask for the reinscription of the countries that were removed from the United Nations list of non-self governing territories.

In Conclusion:

1. We propose to other peoples, victims of military nuclear tests:
   - to the Hibakushas or survivors of Hiroshima and Nagasaki, Japan;
   - to the Aborigines of Maralinga and others test sites in Australia;
   - to the peoples of Bikini, Enewetak and other atolls in the Marshall islands;
   - to the Laguna and Diné people of New Mexico, Shoshone people of Nevada, U.S.A.;
   - to the Kazhaks people, former U.S.S.R.;
   - to the Sahara people, Algeria;
   - to the people of Mongolia, China;

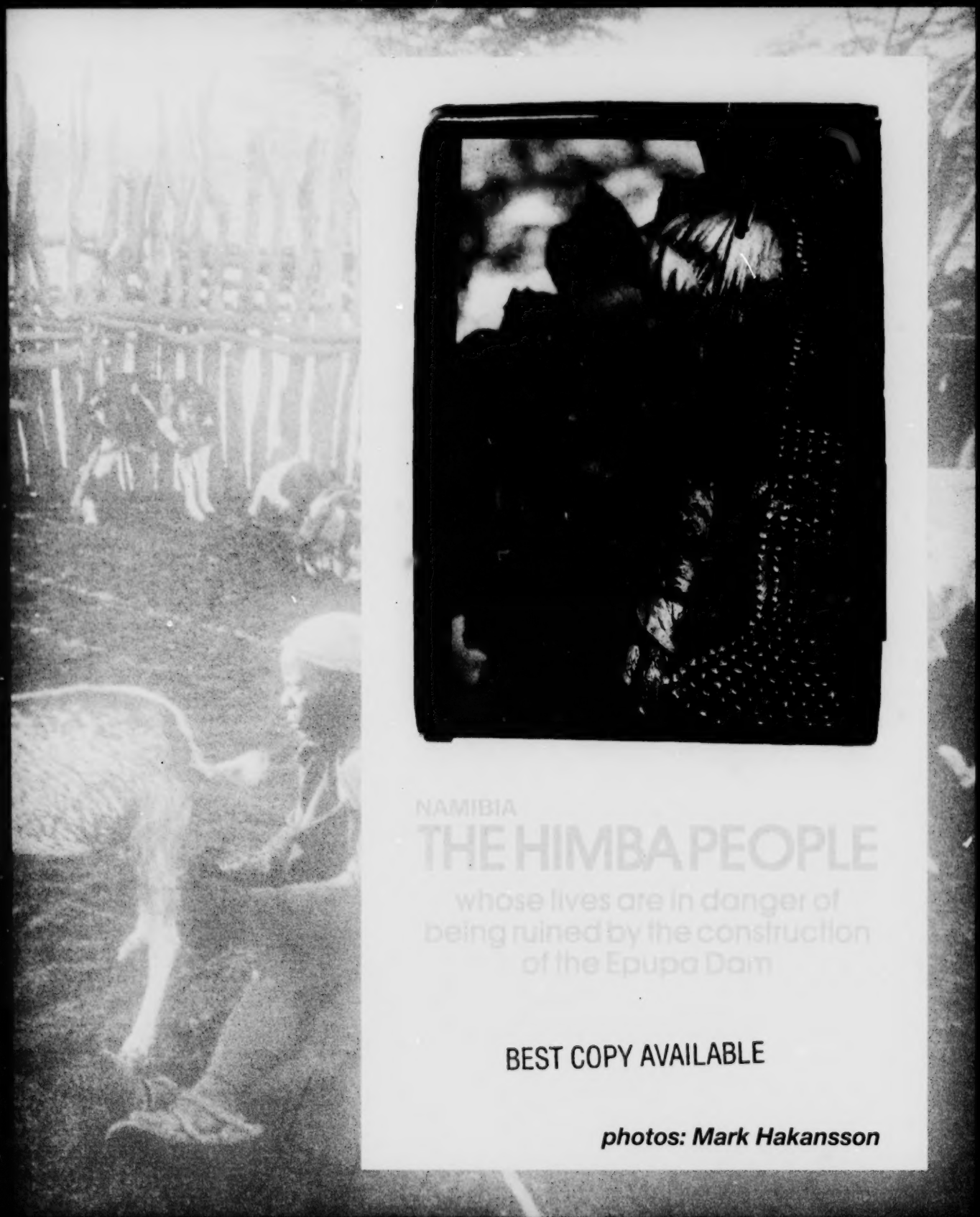
   to create the first circle, set up an International Customary Tribunal, which would judge the crimes of the five nuclear powers according to the values of each culture. We must extend this circle to welcome and comfort all victims of the nuclear age.

2. We propose that world opinion, which has been mobilised since June 13th, 1995, form a second circle in order to support, encourage and protect the efforts of the members of the first circle.

3. Finally, we propose that a third circle be created by those with moral authority on this planet, such as Nobel Peace Prize winners or members of the Canberra Commission, in order to promote an international convention for the final abolition of nuclear weapons.

The fusion of these three circles into one will allow us to advance on the long road which awaits us, for the abolition of nuclear weapons.

[1] Means the Maohi Nation. ❑



NAMIBIA

THE HIMBA PEOPLE

whose lives are in danger of being ruined by the construction of the Epupa Dam

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photos: Mark Hakansson

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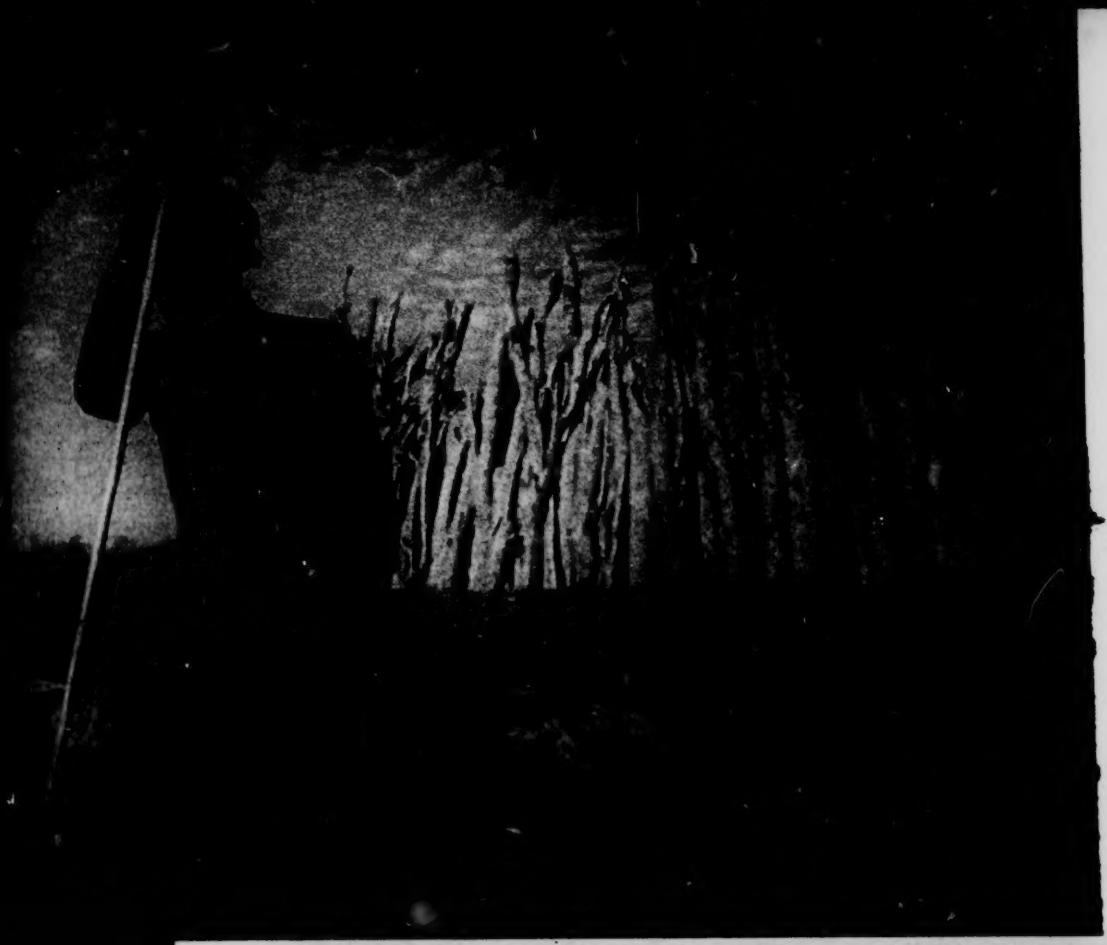

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PHILIPPINES

Gold Mining and the Threat to Indigenous Peoples' Rights in the Philippines

The Case of the Subanen

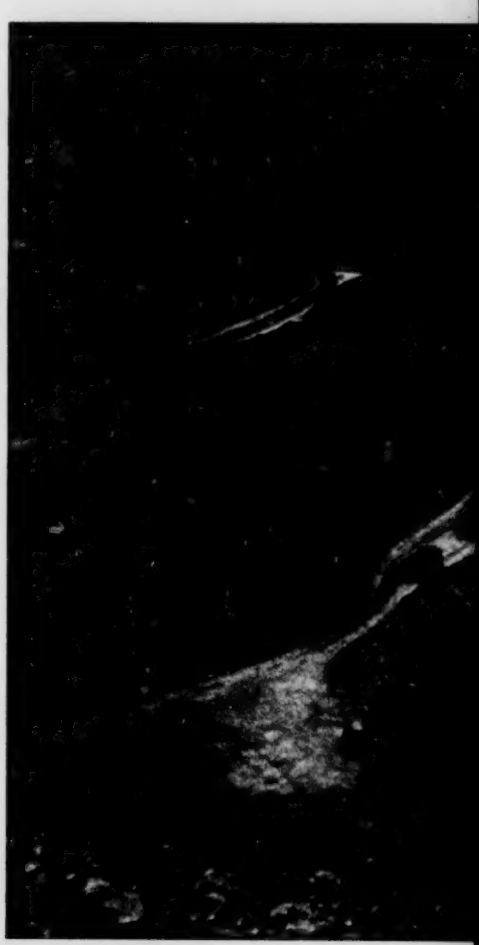
The Zamboanga peninsula of Mindanao in the Philippines is a place of stunning beauty. From the forested mountain spine of the peninsula you can see both palm fringed coasts. In the evening the sun sparkles red and gold off the sheltered coastal waters. That Zamboanga is especially blessed with natural beauty is no surprise to the Subanen, whose ancestral land the peninsula is. It was, they explain, given to them by God .

With the gift, say Subanen elders, comes a duty to safeguard the future of the land. In the Philippines, once described by its then US colonial administrator as 'the most thoroughly exploited country in the world' this is an increasingly tall order. Much of the tropical forest cover has been stripped by loggers, the coastal waters overfished and thousands of hectares of the best agricultural land planted to produce coconuts and rubber. Yet in the 1980s Subanen and church based groups combined to mount a 5 month picket and barricade in Midsalip town which successfully ended logging operations.

The Subanen have a proud independent history. The natural bounty of their land enabled them to grow to be the largest indigenous group in the whole country numbering more than 310,000 people.

But outsiders seem to have an insatiable greed for the natural wealth of this land. Thousands of Christian settlers have poured into their wooded hills clearing farms and town sites and driving the Subanen up into the mountains. The Subanen, which translates as 'people of the river', are a quiet people and they explain that their gods too love peace and seclusion. With the coming of the settlers the Subanen say the Spirits could not stand the noise and retreated further into the forest. The ladder to the sky world formed by the sacred mountain of Pinukis has now been withdrawn.

Loggers have stripped all the valleys and many of the mountains of their forest cover. The Spirits have now been driven far away from the homes of the people. Subanen have, nonetheless, kept faith with defending their lands but have



by Geoff Nettleton

paid a high price. From the 1970s through to the present troops and paramilitary 'religious' sects have used violence and intimidation to drive the Subanen from their lands and paved the way for corporate plunder.

The Philippine mining code

Today, the threat is from mining companies who are coming for the very mountains themselves. The Zamboanga peninsula, like so many parts of the Philippines, is rich in gold, silver and other minerals. The world's biggest mining companies are in a race to see who can be the first to exploit this last natural wealth. A corporate gold rush is underway as companies including Rio Tinto, Britain and the world's leading mining company, scramble for land in the Philippines. Rio Tinto alone has lodged exploration claims for over 600,000 hectares of Subanen land.

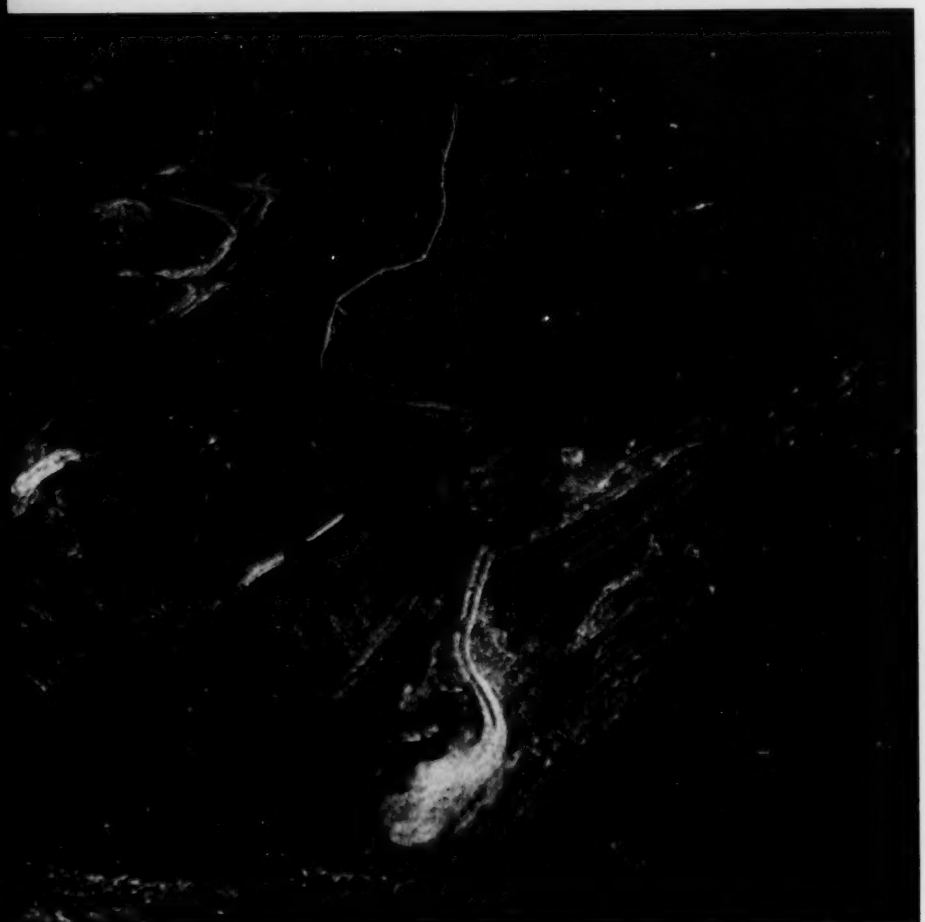
The companies have been attracted by the passage in 1995 of a new Mining Code which offers conditions under its Finance and Technical Assistance Agreements (FTAA) for foreign companies described as 'among the most favourable to mining companies to be found anywhere in the world.' The package includes tax holidays, easy access, large claim areas, 100% foreign ownership, 50-year leases and repatriation of profits and equipment (Resource Kit on Mining CPA 1996).

The Philippines as a whole has the second richest endowment of gold deposits after South Africa. But though plentiful the mineral is found in extensive low grade deposits. Consequently, the cheapest and therefore preferred method is open pit mining. Profits can be made from recovering as little as 1 gram of gold per tonne of extracted rock. The companies plan to bulldoze large areas then grind the rock down and extract the gold by using cyanide or other toxic materials to separate the minerals. This may be cheap for the companies but it carries potentially the highest cost for local people who could find their forests and farms destroyed and rivers and inshore waters choked with silt and poison.

The response to the liberalised mining regulations has been spectacular. In two years more than 120 claims for exploration licences have been made by a list of companies that reads like a who's who of world mining. In total, more than 10 million hectares or 1/3 of the country's total land area is now covered by company claims. Most of this land is also the only remaining ancestral land of the more than 8 million indigenous peoples who form more than 12% of the Philippine population.

In 1987 a new Philippine Constitution was formulated which for the first time gave state recognition to ancestral land rights. But despite recognition in the constitution, the Philippine Congress has dragged its feet on passing any implementing legislation[1] Yet while indigenous peoples waited for genuine land rights legislation other laws like the mining code, integrated protected area legislation, and new dam initiatives moved swiftly into law to rob them of what little land remains.

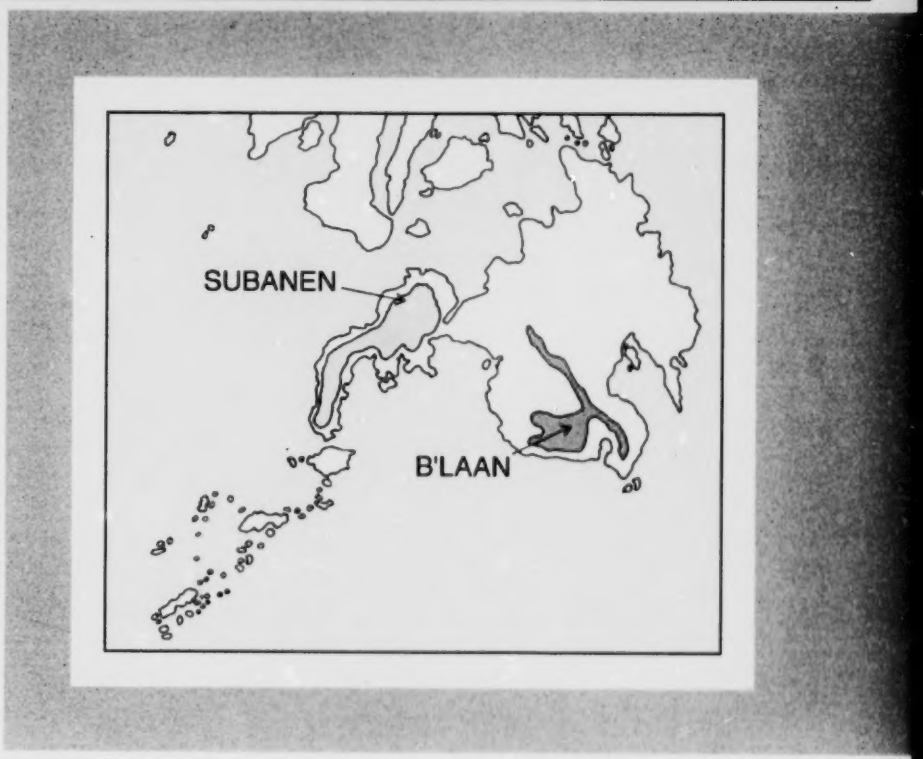
The Philippine Mining Code claims to offer special protection to indigenous peoples like the Subanen. Indigenous peoples must, it states, be consulted and must consent to mining on their land. But it is a negotiation between the sheep and the corporate wolves. Companies are free to offer their own deals to local communities and take upon themselves the main burden of reporting the outcome to government. The machineries of Government including the Office of Cultural Communities, the local offices of the Department of the Environment and Municipal officials are all mobilised to pacify and exert pressure to secure



Antamok open pit mine near Baguio in the Cordillera is creating major health and environmental problems for the local communities.
Photo: Dave Richards/RISC

local agreement. To quote from a letter of Rio Tinto's Philippine Exploration manager:

In opening an ancestral land for mining operations, the consent of the Subanen Cultural Community (SCC) should not be unreasonably withheld. The Government plays a major role in securing the prior consent of the SCC before opening the ancestral land for mining operation for the State, not the SCC, is the owner of all the country's minerals and other natural resources as enshrined in the Philippine Constitution. Henry P. Agupitan, Exploration Manager Tropical Exploration Philippines Inc (since changed to Rio Tinto Philippines) writing to Horació C. Ramos, Director of Mines and Geosciences bureau, dated 24 July 1996.



Company misrepresentation

When and if companies and government officials are still unable to persuade local communities to surrender they can and do resort to misrepresenting local opinion. In September 1996, for example, Rio Tinto called a consultation at short notice in the town of Pagadian. More than 300 Subanen travelled out of the nearby mountains to attend and express their fears and opposition to mining incursion. They carried placards including 'TEPI=Total Exploitation of Philippine Indigenous' and 'FTAA= Foreigners Take All and Abuse'.

Through links with mine monitoring groups including the London based Minewatch they gathered information and were able to question company executives about their appalling past record with indigenous peoples in Bougainville, West Papua and elsewhere and expressed their adamant opposition to the entry of the company. However in a subsequent report to the Government Mr Agupitan felt able to claim that the meeting was 'very successful'. Knowledge of this misrepresentation caused Subanen leaders in the Midsalip area to decide they would not sit down again with the company: *'We, the Subaanen of Midsalip were surprised to learn that TEPI considers the gathering in Pagadian "successful" ... when asked about the record of the parent company RTZ-CRA on questions of: a) environmental degredation; b) desecration of sacred sites; c) displacement of peoples; d) human rights; e) relations with indigenous peoples, etc. in Papua New Guinea, Australia, Indonesia and the Philippines the company representatives gave very unsatisfactory answers ... We do not wish to enter into any further dialogue with TEPI. We do not wish TEPI to carry out exploration on our lands, - we do not wish TEPI to mine our lands. We hope our position will be understood. Our land is our life, given to us by God'.*
Petition submitted to President Fidel Ramos and signed by Subanen of Midsalip 20 Oct 1996.

Because of fear of further misrepresentations Subanen boycotted a further consultation that took place on 30 June 1997. Unabashed by the exposure of his past misrepresentations, at this next meeting Mr Agupitan claimed, in the face of unanimous and implacable opposition to company plans, that while around Pagadian there appeared to be opposition, in other areas there was more support for the company. He quoted selectively from a letter of the Subanen Leaders Forum (SLF) in the neighbouring province.

We are not against development and progress. However, we adhere to the principles of sustainable development as expressed in agenda 21.

This apparent openness to the company was upsetting and surprising to participants in the consultation. However, after the meeting when I travelled to visit the SLF office they shared a full text of their letter, which in reality started unequivocally with: *We strongly oppose the entry of Tropical Exploration Philippines Inc.(TEPI) Toronto Ventures Inc (TVI), ... and other mining firms in the ancestral domain in our province.* Mr Agupitan failed to quote this opening paragraph.

When Survival International challenged Rio Tinto Chairman Robert Wilson on this underhand behaviour his disturbing response was that of course the first consultation had been successful because it was so well attended. On the point of the

At Canatuan local small-scale miners and indigenous Subanen are threatened with eviction by the gold mine planned by TVI of Canada. Photo: Geoff Nettleton/Survival for Tribal Peoples

selective quoting from the SLF he remained noticeably silent.

Can leopards change their spots?

The mining industry has a notorious record of abuse of indigenous land rights. Companies have in the past been responsible for the theft and destruction of indigenous lands on every continent. Two of the most notorious – Rio Tinto, the world's largest mining company, and WMC of Australia – are, however, among those who now protest a new approach.

WMC, formerly notorious for its sponsorship of the black hand campaign attacking aborigine land rights is now promoted by the World Bank as a model of best practice because it now has rhetorical statements and policies towards indigenous peoples and has employed anthropologists in a community relations department.

However, this change of rhetoric is typical of a new public relations style spreading across much of the industry. Clearly companies have increasingly come to realise that the growing recognition of international rights for indigenous peoples makes former abuses unacceptable and counter-productive. Protesters against mining projects were recently assessed by industry analysts to be a significant force in influencing the value of an investment.

Groups like People Against Rio Tinto Zinc and Subsidiaries (Partizans) a dissident shareholder group, have successfully harried the London based mining giant now for 20 years scoring some notable victories. These include campaigns of disinvestment among local authorities including the Greater London Council over the collaboration between RTZ and Apartheid South Africa. RTZ projects like the proposed Cerro Colorado mine in Panama were halted for many years by combined local and international campaigns in which Survival International played a prominent part. Sadly today this project is once again an active threat to the Ngobe Bugle people as Rio Tinto did not so much scrap the project as sell on its rights to another company.

During the original Cerro Colorado campaign a Rio Tinto executive claimed to have the power to 'crush Survival like a fly'. But today public image and the correct words are essential in a world where mining companies are increasingly looking for financial backing from a market that includes small investors, an increasing array of ethically minded funds, and from so called development institutions including western governments and the World Bank.

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International finance of mining

The Bank is taking an increasing interest in catering to the needs of the global miners. Around the world under advice and pressure from the Bank state owned mines are being privatised. Laws are also being changed to deregulate and decontrol mining to provide further incentives for companies to invest. The result can be seen in South East Asia and elsewhere where a competitive lowering of environmental and social safeguards coupled with a package of attractive tax breaks and liberalised regimes allows companies to play off governments against each other and enter deals highly beneficial to themselves but which seem to offer little to their hosts.

The World Bank through its Multilateral Investment Guarantee Agency (MIGA) has become a major underwriter of mining projects. Direct loans to mining has also expanded more rapidly than any other sector of bank investment over the last 5 years. In addition many infrastructure loans financed by the World Bank or other 'aid' institutions turn out on closer examination to bring most benefit to mining projects and might be seen as subsidies. In the 1980s Subanen lands were the focus of an Australian Aid road building project. Less than 10 years later Rio Tinto through its Australian based subsidiary seemingly coincidentally finds itself ideally placed to benefit from these roads.

Whether the changes in the head office public relations department is reflected in field practice is something that does not seem to stand rigorous examination in the Philippine context. WMC is well advanced in seeking to secure the agreement of B'laan communities to allow their access to a rich copper deposit. Philippine and international human rights advocates who have visited the area catalogue a host of abuses.

In the Philippines WMC is seeking to operate in South Cotabato. To ease their passage the company has built houses for co-operative datus (tribal leaders) and placed some on the pay role. Meanwhile leaders who oppose the company have found their recognition by Government offices being withdrawn. (Ref: We feel the pain of our Mountain, Report - International Fact Finding Mission to Mindanao 7-21 December 1996, The Assembly of the United Church in Australia)

Other reports also accuse that some leaders have been taken on junkets to Manila and there introduced to nightclubing. Meanwhile, areas resistant to company entry point to increased military operations in their area forcing evacuation. ('Displaced by Mining dispossessed by the Military - Human Rights and Australian Corporate Mining', The Philippine B'laan people Fact Finding Mission report Nov 30-Dec 5 1996, Indigenus Pilipinas)

The interaction with B'laan social structure seems clearly manipulative and disrespectful of indigenous decision-making. WMC has placed key local representatives of affected communities on their payroll immediately prior to a local decision-making process. Had they attempted this in white communities in their home base of Australia they would be condemned for corruption and bribery. The fabric of B'laan decision-making and community solidarity is being torn apart by the payments and other inducements offered by the company without any consideration of its legality or morality.

It is extremely difficult for individuals who are poor to resist such bribes or maintain united opposition in its face. Almost inevitably communities, sustained in the past by their unity, find themselves divided against themselves.

However, on initial contact most indigenous communities do resist. After generations of land grabbing and abuse they have little land left to them and so little choice but to stand firm.

Mining and human rights

The Subanen of Canatuan, Siocon, Zamboanga del Norte have, for example, repeatedly expressed their opposition to mining on their land by TVI, a Canadian company. Timuay (leader) of the local Subanen organisation Jose Anoy stated: *'I am against TVI because they will destroy our land, dump waste in the river and drive off the game with their noise'.*

Osino Mato another local leader told me *'This is our land. We have always lived here. I don't believe the Government in Canada know what is going on in our place. I do not believe TVI give an honest report'.*

The Canatuan Subanen have a long-standing ancestral land claim which predates the entry of TVI. They are frustrated that their claim is unable to make any progress while the company continues unimpeded. Osino Mato told me *'The Philippine government is being paid to conceal the reality of our land claim'.*

Despite the promises to indigenous communities contained in the Mining Code the local mayor, not a Subanen, has taken it upon herself to give permission to TVI on their behalf. Shamefully, this questionable procedure has been readily accepted by potential investors. The British Government funded Commonwealth Development Corporation responded to protests surrounding this project by pointing to 'an independent environmental impact study ... including full consideration of the socio-economic impact' and the assurance that 'CDC ... are meticulous in ensuring that the legitimate rights of local people are observed'.

In fact on examination it transpires that CDC, who along with NM Rothschild Investment Bank have been approached to extend loans of more than $26 million did not during their own investigations talk to any representative of the local indigenous organisations, other local affected community groups or anyone outside of the local and regional government or company.

The Canatuan operations being more advanced than those of other companies the approach of TVI to community issues therefore may offer a chilling foretaste of what might occur elsewhere.

The company's community liaison has focused heavily on lavish efforts to win the support of provincial and municipal officials rather than the most affected indigenous communities. They have also developed close liaison with the military. The company employs its own heavily armed security force. This force termed SCAA (Special Civilian Armed Auxiliary) is armed and trained by the military but is paid by and operates under the instructions of the company. Their arms include M14 sub-machine guns, other high powered rifles and unbelievably a 105 mm Howitzer field gun. The almost inevitable consequence of this sanctioned private army is abuse and intimidation.

The company has established 2 check points on what was formerly a provin-

cial road. Many Subanen and the small-scale miners community of upper Canatuan, which was established 10 years ago, now find their homes within the company's compound. The checkpoints are used to restrict the movement of people and goods into local communities. A memo signed by Lt. Severo Cabarles, dated 12 March 1997, instructs security guards:

a. To implement total banned (sic) of all goods and beverages and POL products to enter TVI complex;
b. To banned (sic) all supplies/goods intended for the small-scale miners cooperative store.

According to local residents goods including food and drink are confiscated. The release of these goods can be secured only by paying extortion money to the guards. When the local inhabitants responded by transporting their goods the last 3 or 4 kilometres on foot along forest trails company guards booby-trapped the trails. Local residents have found more than 60 'suyak' fixed into the trail and hidden by leaves. The suyak consists of a small piece of wood with a nail driven down through it into the ground to anchor it. A second nail, in this cased barbed, stands up through the wooden base as a spike in the trail. At least one Subanen carrying a sack of rice in bare feet stood on and drove one such nail through his foot.

When, in July, I visited Subanen in their homes near one of the fortified checkpoints people were afraid to speak openly. Eventually, they suggested we transfer to the Small-Scale Miners community to continue our discussion. There is a sound basis for their caution.

On 27 April, 1997, Mr Camilo Aquino of upper Canatuan was shot and wounded in drunken fire by an element of the security force. In other incidents armed SCAA guards have fired in the air and shot at local signs to intimidate residents. Armed men were also used to guard a company bulldozer when it destroyed tunnels of the independent miners.

Rio Tinto, while protesting its openness to dialogue with communities has taken the precaution of investing heavily in securing the support of the local press. On 28 and 29 June, before meeting hostile local church groups the company hosted an exclusive weekend 'seminar'. Attendance was restricted to representatives of the local press and Department of Environment officials. The 'Seminar' which was reported to be the first in a series took place in the region's most expensive hotel. The accommodation costs of P70,000 were (according to journalists who attended) paid by Rio Tinto.

This investment paid dividends on 30 June. Following a meeting between the company representatives and the local church reporters at the press conference that followed adopted a strongly hostile line of questioning towards the opponents of the project.

During the 30 June meeting with Rio Tinto local opponents of the project asked Professor Glyn Cochrane of the company what indicators would be accepted as proof of local opposition and a basis for their withdrawal. Professor Cochrane acknowledged the strength of the opposition but none the less would not answer directly. The answer, he said, lay with the Rio Tinto Board in London. This year Rio Tinto announced a new company community relations policy. It emphasises the desire of the company to be a 'good neighbour' and to 'understand' the people where it operates. However nowhere does it acknowledge or suggest that a community has the right to say no to Rio Tinto's advances.

Frustration is inevitably mounting. The Subanen refuse to have further meetings with Rio Tinto. In Bayog where Rio Tinto has entered into agreement with a local mining firm to expedite its exploration local people have pulled up survey markers. At a meeting in Bayog on 8 July, 1997, Subanen leaders spoke of their preparedness to fight and die for what land remains to them. All across the Philippines communities are fearful of the impacts of mining and doubtful of the protection they will receive from the law. In Nueva Vizcaya a mining engineer working for Climax Mining has already been shot and killed.

The situation must also be frustrating for the companies. In May 1996 a mine on the island of Marinduque, controlled by the Canadian company Placer Dome, spilled millions of tons of cement-like silt into a local river system. The alarm and protests that followed have forced the Department of the Environment to hold up the processing of all applications.

The demand of indigenous peoples is that the final recognition by the state of their land rights claims must precede any further major developments on their lands.

The current idea that companies can be allowed the unilateral freedom to declare the level of local support or opposition is clearly unacceptable and almost bound to lead to fraud and conflict where the profits from large-scale gold mining are at stake.

It is clear that the change in the rhetoric of companies like WMC and Rio Tinto signals a change in the balance of forces (and may indicate shifts in attitudes within the industry). Sadly, so far the head office rhetoric does not carry through sufficiently to the operations of the companies in the field. However, indigenous organisations and their supporters should be alert to the changing situation. The gold rush described here for the Philippines is in fact part of a worldwide phenomenon, and threatened communities are in urgent need of information on company operations and support in exposing the gaps between stated policy and company practice if they are to defend their lands in the increasingly globalised and liberalised world economy.

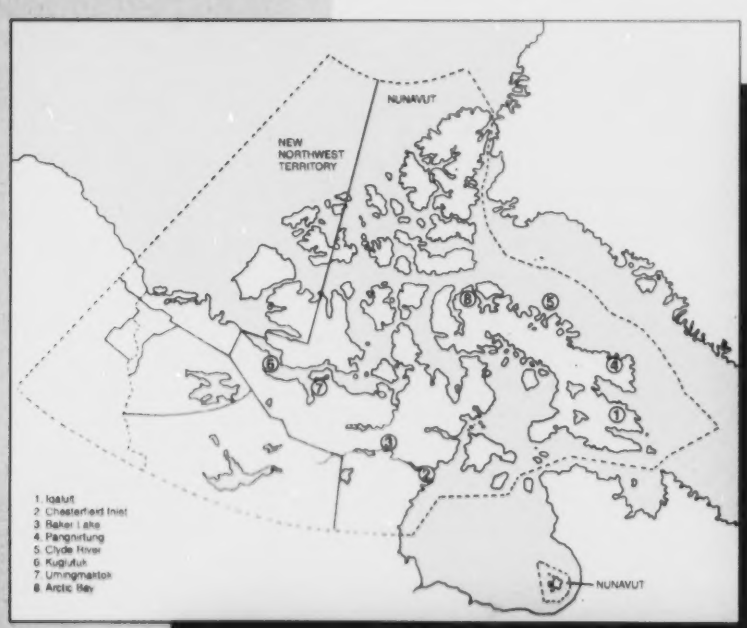
An ancestral land law was recently passed into law. It is too early to judge how it may be implemented. However, some indigenous groups have critised the draft and expressed lack of confidence particularly in relation to mineral rights and mining development.

***Geoff Nettleton** is British and lives in England. He is coordinator of Philippine Indigenous Peoples Links, an indigenous support organisation and a consultant for the human rights organisation Survival International. He has worked in support of indigenous peoples' rights for more than 20 years and lived in the Philippines for more than 7 years. He visited Zamboanga in June and July 1997.* ❑

CANADA

Gender Parity in Nunavut?

On the 26th of May 1997 inhabitants of the soon to be self-governing region of Nunavut voted on so-called electoral gender parity of men and women. The voters were asked to vote yes or no on 'Should the first Nunavut Legislative Assembly have equal numbers of men and women MLAs, with one man and one woman elected to represent each electoral district? _ Yes, _ No'. If the proposal were to pass, one woman from a special women's list and one man from a special men's list would be elected from each of the 10 or 11 electoral districts. Each voter, regardless of sex, would mark two boxes: one from the women's list and one from the men's list.



by Jens Dahl

The story has a quick ending, because on 26 May the proposal was rejected. 57% of Nunavut's voters voted against the proposal and only 43% for. 39% of the eligible voters went to the polls.

The plebiscite and plebiscite results are, however, interesting for a number of reasons:

- How can it be that there was a plebiscite on such a radical proposal? Even by global standards the proposal was unique;
- The public debate leading up to the plebiscite and the voters' decision addressed a fundamental question: the culturally determined relationship between men and women in the modern Inuit society.

Background

In 1992, the Canadian federal government made a twofold agreement with the Inuit people in the Northwest Territories. The some 20,000 Inuits form a majority (approx. 85%) of the population in Canada's enormous north-eastern corner, Nunavut, - Greenland's closest neighbour to the west - and, since the mid-1970s, they have demanded the right to self-determination. The 1992 agreements ensured the Inuits ownership rights to a good 18% of Nunavut (of which approx. 10% included full rights to subsoil resources) and gave them special hunting and fishing rights throughout the whole of Nunavut. Moreover, their land claims agreement with the Canadian government guaranteed special rights in connection with use of renewable resources throughout Nunavut. Only the Inuit are included in this land claim agreement

A political accord calling for establishment of a self-governing region, Nunavut, in 1999 was attached to the land claim agreement. Similar to the Greenland Home Rule Government, the political

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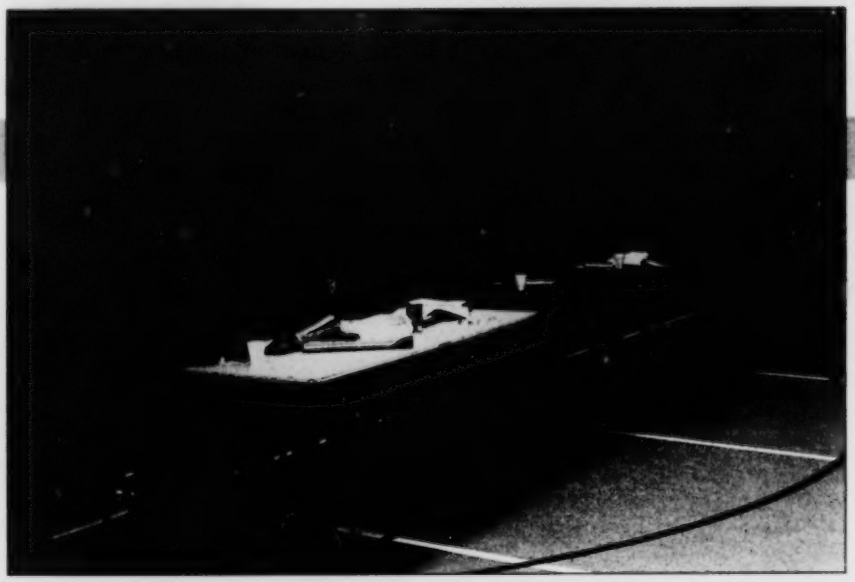

The meeting in Pangnirtung discussing the issue of gender parity in Nunavut. Photo: Jens Dahl

accord will establish a territory where all inhabitants, regardless of ethnicity, have the same political and social rights. The Inuit conditioned the land claim agreement by demanding the establishment of Nunavut - well aware that they constitute the vast majority of the population.

Ahead of them lay the big job of establishing Nunavut's institutions. The Inuit had negotiated through the organisation Tungavik Federation of Nunavut. After entering into the land claim agreement the organisation's name was changed to Nunavut Tunngavik Inc. (NTI). In addition to representing Inuit the NTI will manage all Inuit owned land. Furthermore, the NTI entered into a trilateral co-operation with the federal government and Northwest Territories' government in Yellowknife. Together, they established a special institution, Nunavut Implementation Commission (NIC), which will advise the founding parties and provide proposals for the structure of Nunavut's many new institutions as well as the big questions of Inuit employment, establishment of an Inuit controlled economy, transfer of employees from Yellowknife to Nunavut, etc. Additionally, NIC has twice called for plebiscites to determine the inhabitants' opinion on issues of central importance for Nunavut. In both cases the issues were extremely controversial. The first plebiscite was called to determine where Nunavut's new capital would be located. Iqaluit, Nunavut's largest city, was selected.

Among the questions NIC had to respond to was the division of Nunavut in electoral districts as well as proposals for an electoral system (proportional representation, individual constituencies, electoral lists, etc.). In December, 1994, NIC brought forth a discussion proposal on gender parity, and two years later NIC was able to present a concrete proposal to the federal government, territorial government and Nunavut Tunngavik Inc. The proposal was backed by a number of the Inuit's own organisations as well as the federal minister responsible for indigenous affairs. On the other hand, the Northwest Territories' government was against the proposal, and the Nunavut caucus in the local parliament in Yellowknife did not support the proposal either. The opposition was led by Manitok Thomsen who is the Minister of Municipal and Community Affairs and the Women's Directorate.

The campaign

We are sitting in the school's gymnasium, an audience of approximately 35 listeners. Most have not removed their quilted jackets and hats, even though it is not so cold in the hall. Some women are sitting on a couple of benches along the side with their children in *amaat*, the special type of anorak where the hat is shaped like a pouch. There is also a table with coffee and different kinds of homemade, baked goods off to the side. The evening's three speakers are sitting at a couple of tables in front of us.

We are in Pangnirtung, a small community on Baffin Island, Canada. More precisely, we are in a side-fjord deep in the Cumberland Sound on the east side of Baffin Island. It is the end of May, but the fjord is still covered in ice, and the hunters still travel by snow mobile on the ice.

The meeting in the school has been called on the occasion of the approaching plebiscite on whether or not the new self-governing territory of Nunavut should have a legislative assembly with an equal number of men and women.

The three guests on the podium represent the national Inuit organisations which put forth the proposal on equal representation of men and women. They are welcomed by a local man, who asks one of the listeners present to come up to the podium and open the meeting with a prayer. Then it is time for the speakers. After the short presentations there is a question and answer session. The meeting takes place in Inuktitut, but there is simultaneous translation to English to the delight of the non-Inuktitut speaking part of the audience.

Men are the first to respond. They apologise for the low turnout, but ex-

plain that due to the good weather most men went hunting. They are not excited about the proposal. Men are the masters at home, and only problems will result if women go off instead of staying at home with the children. Moreover, they state that *'all Canadians are equal, and we can become priests or presidents - even women'*, to illustrate that the proposal is superfluous. Counter-arguments are put forth from the podium, that, for example, praxis shows that women do not have the same opportunities as men. In the future Nunavut it will be necessary to try something new to resolve the many serious social problems. And here it is important that women and men work together. *'The existing Northwest Territories parliament is something that has been rammed down our throats, so this is our proposal as to how we want to organise ourselves'*, is heard.

The debate goes back and forth. It is basically only men who speak out. After a solid hour and a half the meeting is about to come to a close. Then one of the women speaks out: *'We need to try something new'*, she says. *'With all of the bad news reaching us by radio everyday, I want something good to happen. And equal representation of men and women in Nunavut's new legislative assembly is a good place to start'*. The podium is unable to respond before another woman from the hall supports her, and she is barely finished before another woman takes over.

The meeting could easily give the impression that only men were opposed to the proposal. During the days leading up to the meeting there were radio and TV broadcasts of interviews with many women who, with the same arguments as the men in Pangnirtung, were against the proposal: all Canadians have the same rights, men and women; it is just a question of the best qualified seizing the opportunity. Supporters of the proposal point out that Nunavut first and foremost benefits men with the proposal on special financial support to hunters.

A constant issue is the comparison between the home and the future legislative assembly, 'house of commons'. Supporters of the proposal state that the legislative assembly should have the same gender parity of men and women as found in the home. One listener expressed on the radio that *'if the legislative assembly is to be a home, there should be room for both a mother and father figure'*. The role of men and women is different, but they complement each other and are of equal importance. That is how it should also be in the legislative assembly - there are issues which women are best able to see to, and it is therefore imperative that their representation be assured. Likewise, with a starting point in the traditional division of roles in the home, opponents state that women should stay at home.

Another issue is the proposal's status as regards the Christian conception of the relationship between men and women. At the meeting in Pangnirtung one of the male listeners tried to argue that men were more intelligent than women. He modified his position, however, when the podium countered that God created man and woman equal. On the other hand, religion was often heard being used on the radio as the basis for opposition to the proposal.

A third issue is discrimination. Even women raised this question. Electoral gender parity will discriminate against women, because they will not be able to compete with men (I have neither heard nor seen presented the opposite and technically correct argument that the proposal will also discriminate against men), and if the two best candidates in a district are women, only one of them will be able to be elected.

Many of the issues which had been on the radio or TV during the previous weeks were repeated at the meeting in Pangnirtung. One of the issues which had been touched on by many perspectives was if electoral gender parity of men and women was in agreement with traditional Inuit ideas and values. And what is traditional and what is not? Are the consequences of equal representation of men and women in the legislative assembly in accordance with traditional Inuit values, or do they break with the old customs? Does the proposal represent an attempt to return to traditional, valued Inuit ideals, or is it a product of modern times? In connection to this a question arose several times as to whether or not the present proposal came from the Inuit themselves or if it was a proposal from the South. The latter was argued by opponents of the proposal. Considering that the existing system discriminates against women, supporters considered it to be of no matter where the proposal originated; for them it was crucial that Inuits themselves found their own ways to resolve key issues. *'Gender parity is made in Nunavut'*.

After the meeting in Pangnirtung the guests flew back to Iqaluit, Nunavut's future capital, located a solid one hour flight south of Pangnirtung.

The plebiscite

There was not much evidence that in Iqaluit, on the 26th of May, a crucial plebiscite had taken place. But the event had been carefully covered by the northern media, both radio and TV. At the national level the vote received less attention and was dwarfed by coverage of the Canadian parliamentary elections to be held the following week. Due to the time difference between eastern and western Nunavut, the plebiscite ended two hours later in the west than in Iqaluit.

About a dozen people were gathered together in Nunavut Tunngavik Inc.'s rooms, including the leaders, who during the previous weeks had come out in full support of the proposal. It was not until nine o'clock that evening that the first results were announced on the radio. They were from the Arctic Bay/Nanisivik on Baffin Island and showed a small majority against. Soon thereafter the results from the nearby prison (for men) arrived and showed a small majority for the proposal, which gave cause to a number of comments.

Judging from the results from the Baffin Island region, it quickly became clear that it would be difficult to obtain a majority for the proposal. And this tendency became more and more obvious as the evening drew on and results from the eastern region (Nunavut has three regions, Baffin Island, Kivalliq (Keewatin) and the northern region Kitikmeot) came in. In Kivalliq there was a solid majority against the proposal which made any hope for passage of the proposal unrealistic. In Chesterfield Inlet there were 117 votes against the proposal and only 9 for; Repulse Bay showed 143 against and only 16 for; the region's largest city, Rankin Inlet, showed 305 for and 112 against the proposal.

It was now clear that the proposal had been rejected even though in the little

northern region of Kitikmeot there was support for the proposal - this was the only region to vote in favour of the proposal.

As the evening drew to a close, only the results from Iqaluit, the largest city, were still missing. Only an enormous voter turnout and overwhelming majority for the proposal could change the result to a yes. The results first arrived around 11.30, and by then many had abandoned Nunavut Tunngavik's offices. The atmosphere in the office was far from cheerful. One of the leading politicians watched a hockey game on TV, out of frustration, and refused at that time to speak to the radio or TV.

Five out of six communities in Kitikmeot had voted 'yes', but the voter turnout percentage was low. In the largest region, Baffin, there were three times as many votes as in Kitikmeot and double the number of votes in Kivalliq. The voter turnout was 40,5% in Baffin; 38,4% in Kivalliq; and 32,0% in Kitikmeot. Umingmaktok (Kitikmeot) had the highest turnout of any region (76%), but there were only 50 voters entitled to vote. 75% of Chesterfield Inlet's (Kivalliq) 169 voters voted. Umingmaktok voted 'yes', and Chestefield Inlet had an overwhelming majority against.

The lowest voter turnout rate was in Kugluktuk (Kitikmeot) with 21% and 635 voters; Clyde River (Baffin) with 26% and 341 voters and Baker Lake (Kivalliq) with 28% and 741 entitled to vote. Kugluktuk was the only one of the three to vote 'yes'. There are a number of reasons to explain the low percentage of voters. Both supporters and opponents stated that the month of May is a period during which many inhabitants set out to fish or hunt. Another explanation is purely and simply a lack of interest in the proposal.

At this point it had to be accepted that the proposal had been voted on and rejected. Reactions to the plebiscite results in the following days were varied. Inuit leaders had suffered a considerable defeat - on the other hand, it was inflicted by their own constituents. There was no evidence that it was especially

Region / Community	Eligible Voters	Votes Cast	Yes	No	% Yes	% No	% Turnout
Nunavut	11,943	4,640	1,978	2,662	42.6%	57.4%	38.9%
Baffin	6,146	2,491	1,149	1,342	46.1%	53.9%	40.5%
Keewatin	3,486	1,338	361	977	27.0%	73.0%	38.4%
Kitikmeot	2,311	739	420	319	56.8%	43.2%	32.0%
Arctic Bay / Nan	444	134	64	70	47.8%	52.2%	30.2%
Broughton Island	304	151	83	68	55.0%	45.0%	49.7%
Cape Dorset	579	170	90	80	52.9%	47.1%	29.4%
Clyde River	341	87	40	47	46.0%	54.0%	25.5%
Grise Fiord	82	45	17	28	37.8%	62.2%	54.9%
Hall Beach	289	88	33	55	37.5%	62.5%	30.4%
Igloolik	559	281	119	162	42.3%	57.7%	50.3%
Iqaluit	1,741	715	387	328	54.1%	45.9%	41.1%
Kimmirut	227	121	49	72	40.5%	59.5%	53.3%
Pangnirtung	610	291	122	169	41.9%	58.1%	47.7%
Pond Inlet	530	209	68	141	32.5%	67.5%	39.4%
Resolute Bay	110	53	22	31	41.5%	58.5%	48.2%
Sanikiluaq	330	146	55	91	37.7%	62.3%	44.2%
Arviat	789	273	81	192	29.7%	70.3%	34.6%
Baker Lake	741	207	94	113	45.4%	54.6%	27.9%
Chesterfield Inlet	169	126	9	117	7.1%	92.9%	74.6%
Coral Harbour	313	104	25	79	24.0%	76.0%	33.2%
Rankin Inlet	1,065	417	112	305	26.9%	73.1%	39.2%
Repulse Bay	276	159	16	143	10.1%	89.9%	57.6%
Whale Cove	133	52	24	28	46.2%	53.8%	39.1%
Cambridge Bay	652	192	105	87	54.7%	45.3%	29.4%
Gjoa Haven	396	143	90	53	62.9%	37.1%	36.1%
Kugluktuk	635	134	68	66	50.7%	49.3%	21.1%
Pelly Bay	225	80	32	48	40.0%	60.0%	35.6%
Taloyoak	353	152	93	59	61.2%	38.8%	43.1%
Umingmaktok / BI	50	38	32	6	84.2%	15.8%	76.0%
Inmates	142	72	48	24	66.7%	33.3%	50.7%

Inuit who had been the supporters and the white Canadians who had been the opponents. There are not enough of the latter group, and Iqaluit with its many white inhabitants actually voted 'yes' to the proposal contrary to many communities with few White inhabitants which voted 'no'. In Chesterfield Inlet, for example, where 94% of the population are Inuit, 93% voted against the proposal.

The leading article after the vote in the prominent Nunavut newspaper Nunatsiaq News was a bitter and frustrated reaction:

> *Compared to most of Nunavut's men, Nunavut's women are more literate, more level-headed and more skilled ... A self-governing Nunavut will need leaders who know how to read, write, count and compute in both our major languages, and leaders who know how to show up for work without a hangover. But take a look at who shows up the next time your regional Inuit association or community council holds a meeting. Then, count the number of men around the table who possess those qualities. Next, count the number of women who possess those qualities. Observe who's doing the typing, the interpreting, the translating, the minutetaking, the bookkeeping and the telephone answering. Observe who's doing the work that actually takes brains to do. If you do that, you'll understand what the people of Nunavut really lost in Monday's vote. You'll understand that the gender parity proposal was not created for the benefit of women - it was created for the benefit of all.* (Nunatsiaq News, 30 May 1997)

Explanation

The majority of Inuit political leaders supported the proposal on gender parity of men and women.

Some had originally been opponents, but during the two years that the proposal circulated many of them changed their opinion. Considering this, there is good reason to question why the majority of the population voted against the proposal anyway. A good part of the answer will only be conjecture, but the results could show something about modern Inuit culture anyway.

The plebiscite results showed certain regional differences in that Kivalliq unequivocally voted against the proposal. One explanation can be the simple fact that the leading opponent, Manitok Thomsen, comes from there. It could also be that the Inuit's leadership has been associated with the Baffin region, which is not unthinkable even though most political leaders come from Kivalliq (as they always have done). The plebiscite results can be understood as a certain competition between regions but also as a protest against the political leaders' power. Frustration that Iqaluit is to be the capital of Nunavut (and not Rankin Inlet in Kivalliq) could have played a role as well. The fact that it is felt that many of the positions the new development has created are monopolised by a little elite with connections to the leading Inuit organisations, which are based in Iqaluit, could also have been a factor. In this connection it should not be forgotten that there have not been any concrete improvements for most people during the preparations for the establishment of Nunavut - after decades of discussions and promises they are still waiting. Nevertheless, in the big picture, the plebiscite results show Nunavut to be more homogenous than dealt up in regions.

During the weeks leading up to the vote representatives for Nunavut Tungavik Inc., Nunavut Implementation Commission and Pauktuutit (the Inuits women's organisation) ran a campaign in which they visited a number of communities in Nunavut. However, the plebiscite results do not evidence that these visits had any positive effect for their cause - in fact the opposite is true. This can be explained by the fact that many people felt intimidated by the one-sided campaign. Why didn't you bring representatives from the opposition? Who has paid for your campaign? These and similar questions were repeatedly asked during the meetings and by the media.

Perhaps many reacted against the feeling that they were being forced to do something and therefore withdrew and voted 'no'. There was talk of conservatism after the vote. Instead, maybe it should be understood as a withdrawal of support for a politician, not out of disagreement but simply because his or her power is beyond that which can be considered to be legitimate.

Both sides legitimated their positions by referring to the Inuit's traditional values and ideals. In this light it can be said that the result is an expression of a positive diversity in modern Inuit culture, because it is basically unimportant who is right. Both sides referred to their position's consistency with modernity, for example, human rights.

The proposal on gender parity of men and women led a number of men to see the proposal as a threat to their position. The man is the traditional hunter who comes home with the catch; he is the provider. Out hunting he comes out into the world and comes home not only with food but with experiences, information and new knowledge about other people and about nature. It is the man who passes on his knowledge - the woman listens. In many ways the last decades have witnessed a break in this monopoly. Women have become wage earners; many have a good education; and it is now often men who are unemployed and must stay home.

This development has been psychologically difficult for many men. On top of this they are faced with a proposal which is seen to be an attempt to give women a special political position (at the cost of men, because it is not considered to be an attempt to ensure men an equal position with women) - a position which will make them the providers of income, information and power. It could be pointed out that in reality the proposal would only affect a dozen women or so. A quantitative argument is, however, not important if it is the symbolic meaning of the proposal which determines people's position. It can be assumed that many men perhaps came to consider the proposal to be the essence of the process that has deprived them of their role as provider.

The difficulties of understanding the results in terms of voter behaviour among traditional (in the Euro-American sense) social groups was made clear in a TV programme about young people. It would have been expected that young people would be more open to the proposal than older people, but after the programme it was clear that among both Inuit and non-Inuit youth there was a marked opposition to the proposal.

It has been mentioned on several occassions that the proposal on gender parity of men and women did not come from the Inuit people themselves. However, nothing suggests that this has been a decisive factor for opponents. That the proposal was accepted by a broad group instead suggests that many must have felt that it passed in with their cultural values - or perhaps that it was in agreement with the strong desire that Nunavut should function differently from the Euro-Canadian society which for decades has been forced on the Inuit people.

At any rate, it is the opinion of this article's author that if the proposal had been approved it would have meant that the entire world would have taken notice of the development in Nunavut. But of even greater importance, it could have contributed to an Inuit understanding that it is possible to do things differently than the way they have been forced to do things by outside forces.

In the meantime, however, the proposal has been defeated by plebiscite and it is doubtful that it will be reintroduced. The strong opposition to the proposal by women shows that the desire for a strong family plays a dominant role in Inuit culture. Any initiative which can be interpreted as a threat to the family will be rejected out of fear for more social problems. Regardless of who has the best solutions, in Nunavut there is a strong ideological desire to strengthen close family relations - even if there are many indications in everyday life that point in the opposite direction. Or, as many pointed out before the plebiscite, equality of men and women should first take place in the home before being carried out in other places.

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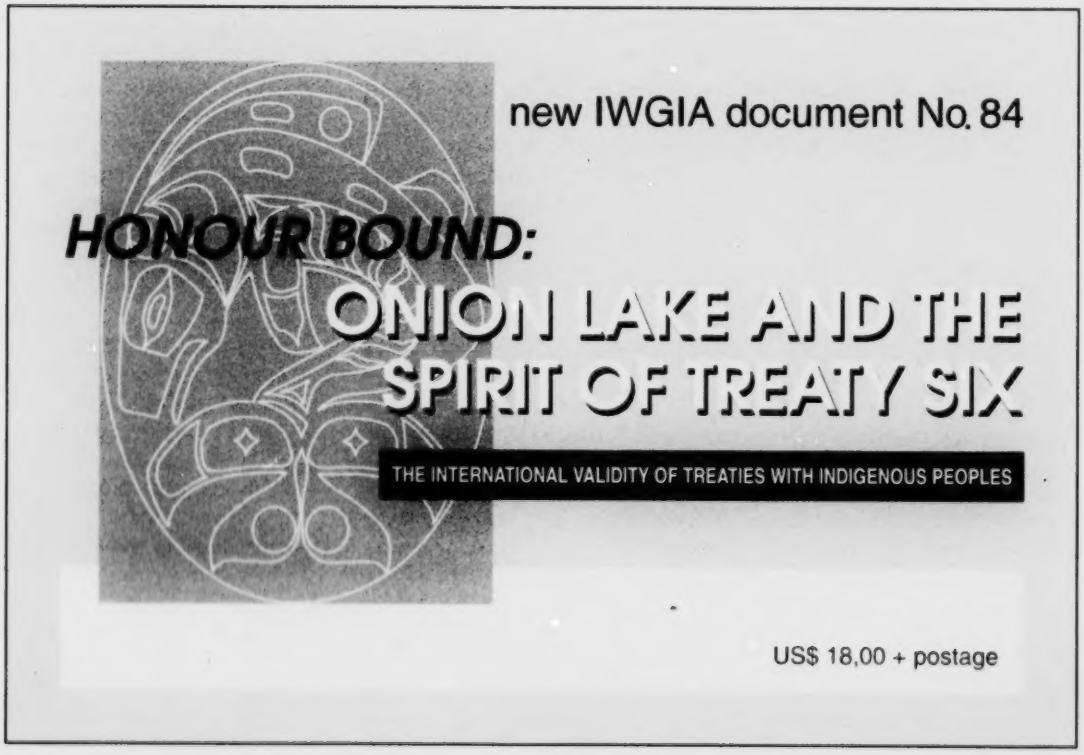


SÁPMI

Land Rights, Linguistic Rights and Cultural Autonomy for the Finnish Sámi People

by The Finnish Sámi Parliament

In many ways over the past few years the position of the Finnish Sámi people has improved considerably. However, since early 1995, the Finnish Sámi Parliament has observed with a growing concern that, at the same time that Finland secures or intends to secure a special position and rights for the Sámi population in its legislation, in administration and in the implementation of treaties, the acts and organised activities against the Sámi are increasing in the Sámi homelands. Some members of the majority population – and some municipalities (local governments) – do not accept the fact that the Sámi people are guaranteed the use of their own language and the exercise of their own culture with arrangements that do not apply to the rest of the population. In addition, some news media and journalists transmit, without the slightest criticism, propaganda against the Sámi and express their own anti-Sámi attitudes.

Either because of the Penal Code or entrenched practices, public prosecutors do not *sua sponte* prosecute anti-Sámi acts which have already become rooted in everyday life in our society. The organised anti-Sámi activities by the majority population are a source of anxiety for the Sámi, frightening some of them to the extent that they no longer dare behave as Sámi. The situation essentially weakens their *de facto* possibilities to use their mother tongue, practise their own culture and assume their own identity and own way of life. The anti-Sámi actitivities also have a negative effect on political decision-making, creating difficulties for legislative solutions affecting the Sámi population.

The eleventh and twelfth periodic reports of Finland

At its forty-eighth session, from 26 February to 15 March 1996, the UN Committee on the Elimination of Racial Discrimination **in item 12** expressed its concern over the Sámi people's participation in the 'Sámi Parliament' in their own mother tongue; and **in item 24** recommended that the State Party do all in its power to enable Sámi children to pursue their studies at primary and secondary levels in their mother tongue.

On **item 12,** the Sámi Parliament would like to specify that three Sámi languages are used in Finland: Northern Sámi, Inari Sámi and Skolt Sámi. The legislation permits the use of all three languages in the Sámi Parliament both for meetings and for records. The Northern Sámi is used for both purposes systematically. The other two can be used for meetings with simultaneous interpretation. Their use is, however, undermined by a lack of resources; both financial factors and a scarcity of qualified interpreters.

As regards **item 24**, the Sámi Parliament states that primary schools in the municipality of Utsjoki have classes where pupils are taught in the Sámi language and in the municipality of Inari the teaching of Sámi-speaking children is approximately half and half in Sámi and Finnish. Schools at secondary level in

The Finnish Sámi Parliament 1997. Photo: Pii Valto Ohlejohka

particular are afflicted by a shortage of materials in the Sámi language and of Sámi-speaking teachers of special subjects.

It is estimated that there are only a few children under and of school-age whose mother tongue is Inari Sámi or Skolt Sámi. The teaching of these languages in the schools is decreasing, because they are optional subjects. Whether or not children take optional language classes is decided by parents, who were forbidden even to speak the Sámi language at school till the 1960s. These parents do not dare put their children in classes which are given in Sámi for fear that the children will not learn enough Finnish. The speakers of Inari Sámi and Skolt Sámi both number 400 to 500 persons. These languages are dying out in Finland and in the world. The government and the Finnish scientific community show interest in the matter in too few practical measures or allocate too scarce resources for such measures. In fact, not much would be needed to turn the development round.

The problems of education in the Sámi language are related to legislation, school administration and resources.

Our legislation does not require with sufficient unambiguity that Sámi children be taught the Sámi language and be given school education in that language. Schools are administered by municipalities. The Sámi population does not enjoy a specific legal position in the decision-making process on the provision of education for Sámi children and in the related use of government grants. These funds are not earmarked for the Sámi population. In recent years the reverse trend in government funding has led to a halt in the previous, positive development, and the municipalities have not been able to bring the education of Sámi children to the level of goals specified in the law. The teaching of the Sámi minority languages: Inari Sámi and Skolt Sámi, is at risk for yet another reason: they are optional subjects in schools.

The Sámi language is the foundation of the Sámi education and culture. Education in the Sámi language and the teaching of that language are part of the linguistic rights of Sámi people and of the basic services for citizens. The administration of basic services for the Sámi should, in accordance with the Act on Sámi Cultural Autonomy, be administered by the Sámi themselves, instead of being dependent on the various bodies in municipal school administration, on their composition, and on the political climate at a given moment.

In spite of the legislation, the provision of daycare in the Sámi language does not function at nearly a satisfactory level; in some places it is not provided at all. The Sámi language and culture are not adequately transmitted by the generations of grandparents and parents to those children under school-age who do not receive daycare in that language. In the next phase, the school cuts the children off from their cultural background and its values.

If the Sámi language and culture are not transmitted in daycare and school education from one generation to the next, they will die, as will happen with the minority languages of Inari Sámi and Skolt Sámi during the present generation unless action is quickly taken to revive them.

Those of the Sámi population who are ill or old end up in institutions where they, as Sámi speakers, have little contact with the staff. This is due to the lack of social welfare and health care services in the Sámi language and of the near total lack of Sámi speaking staff in the municipalities of the Sámi homelands.

The shortcomings evident in municipal social welfare and health care services could be remedied by adopting Sámi cultural autonomy as the basis for the legislation, administration, provision, and monitoring of social welfare and health care services for the Sámi.

Land rights

In item 11 the Committee on the Elimination of Racial Discrimination ex-

pressed its concern over the shortcomings in the guarantees for the land rights of the Sámi people and over the national and international economic activities (mining, logging, etc.) which threaten the Sámi way of life and **in item 23** proposed that the Finnish Government draft a clear policy on Sámi land rights and on the ratification of ILO Convention No. 169.

In its present legislation Finland does not guarantee the Sámi rights on land, water and natural resources; nor does it guarantee the Sámi people the right to the livelihoods that are part of their culture. This applies both to the rights relating to the property of the Sámi population and to their rights under international treaties.

As early as 1978 the Constitutional Law Committee of Parliament gave an opinion (PeVL 7/1978 vp) that it would promote the aims of the Convention on the Elimination of Racial Discrimination and increase the protection of law afforded to the Sámi people if the law on the division of water areas, as far as the legal rights of Sámi communities are concerned, were the same as those of other title holders. To date, this has not been implemented as far as the Sámi water areas or fishing rights are concerned; however, the fishing rights are protected under the Constitution Act of Finland, as was noted by the Constitutional Law Committee of Parliament as early as 1978 (see PeVL 30/1993 vp, e.g.).

The situation is similar as regards the ancient Sámi right of ownership to land – and the related rights to practise reindeer herding, fishing and hunting – which remains unsettled in law, even though the Constitutional Law Committee of Parliament has repeatedly urged the Government to present proposal to solve the question without delay (see PeVL 3/1990 and 6/1990 vp; HE 248/1994 vp p. 3). Yet another area where these rights remain to be settled is administration where the Sámi do not yet have a special position.

In 1993 the earlier Sámi Parliament was assigned the task of drafting a proposal on land rights, and the Parliament set up a working group for that purpose. The current Sámi Parliament pursues the task, with a view to producing a proposal in the form of a Government Bill, which would in its part remove obstacles to the ratification of ILO Convention No. 169. In accordance with the views adopted by the Ministry of Justice and the Ministry of Labour, the Government is obliged to provide the Sámi Parliament material support for its task. The Sámi Parliament considers the concern expressed by the Committee over the Sámi land rights justified. The question is before the Sámi Parliament for settlement, but to date the Government has not allocated funds for the work. While the Government is yet to adopt a policy on Sámi land rights, it has in any case entrusted the Sámi Parliament with the task of drafting a proposal to solve the matter.

Linguistic and cultural rights and resources

Since 1992, under the Sámi Language Act (516/91), Sámi people have had the right to use the Sámi language before authorities, orally and in writing, and to receive a reply in the same language. In practice, however, the exercise of these linguistic rights by the Sámi is based on translation and interpretation, creating crucial obstacles to dealing with authorities. The level of linguistic rights afforded to the Sámi population in the Sámi Language Act should be re-examined to assess whether it reaches the level guaranteed to the Sámi in the Constitution Act as regards the right to maintain and develop their own language and culture (see Chapter 3). The status of the Sámi language in school laws should be examined in the same light.

In Inari the education and training centre for the Sámi region already offers classes in the Finnish and Sámi languages; the knowledge of both languages is included in the qualifications of newly recruited teachers. The purpose of the school is to preserve and develop the Sámi culture and natural livelihoods. The Sámi people are in a determining position in the administration of the training centre.

In 1996 the Sámi Parliament adopted three Sámi languages spoken in Finland as the languages which have an equal status in the Parliament: Inari Sámi, Skolt Sámi and Northern Sámi. The implementation of the decision is being postponed until government funds are made available for it. In many places Sámi people have already changed languages. This particularly applies to Inari Sámi and Skolt Sámi, and in certain areas also to Northern Sámi. The revival, maintenance and development of the Sámi languages require speedy measures and targeted resources.

Today, the practice of Sámi culture is subsidised from the state budget. Decisions on the allocation of the funds are made by the Sámi Parliament. The Sámi Radio has a channel for daily broadcasts in the Sámi language. Construction for a Sámi Museum started in the autumn of 1996. Special measures are still needed to create such cultural services as TV broadcasts in the Sámi language, especially programming for children, to support Sámi arts, and to protect Sámi handicrafts and the Sámi cultural heritage.

The fundamental rights and cultural autonomy of the Sámi people

The legislation relating to the Sámi population has recently undergone a profound reform. On 17 July 1995, in the context of the Fundamental Rights Reform (969/95), a new Section 14 was incorporated in the Constitution Act of Finland which in subsection 3 guarantees the Sámi people, as an indigenous people, the right to maintain and develop their own language and culture. The reform came into force on 1 August 1995. At the same time, a new section 51 a (973/95) was added to the Constitution Act which gives the Sámi people, as an indigenous people, cultural autonomy in respect of their language and culture within the Sámi homelands. More specific provisions on the matter were incorporated in the Act on the Sámi

Parliament (974/95), which applies to a body of representatives elected by the Sámi people from among themselves and the powers of that body. The laws on cultural autonomy came into force at the beginning of 1996. They do not apply to land rights or to the right to a livelihood (See PeVM 17/1994 vp).

Together with the Sámi Parliament Act, the amendments to the Constitution Act considerably improve the possibilities of Sámi people to develop their own language and their own culture on the basis of cultural autonomy. In practice, however, the implementation of the reform is being slowed down by a lack of resources and vocal anti-Sámi activities.

The purpose of the Act on the Sámi Parliament was to slightly widen the definition of Sámi which is based on the Sámi language. Because of a technical error which through oversight was left in the bill, the definition of Sámi became so ambiguous (see PeVM 17/1994 vp) that most non-Sámi people in the Sámi homelands have reason to believe that if they so wish they can seek to be defined as Sámi. They believe that this gives them a right to decide on cultural autonomy for the Sámi and to enjoy any other rights and benefits afforded to the Sámi people.

The Sámi Parliament, adopted on 1 March, 1996, a statement to draw attention to the shortcomings in the Act on the Sámi Parliament. The Parliament rejects the new, wider definition of a Sámi and demands that the definition based on language be restored to what was the definition in the Decree on the Sámi Parliament (988/90) and still is in the Sámi Language Act (516/91). If that definition is not restored, there is a risk that the wider definition in practice leads to the forced assimilation of the Sámi with the majority population, against the purposes of the legislation on cultural autonomy. In its statement the Parliament also requires that the laws relating to the electoral register for the Sámi Parliament be harmonised with the safeguards under European Community law for the private life of an ethnic group.

Relations between population groups

The unresolved nature of the Sámi land rights and of rights to livelihood together with the problems relating to the Sámi right to cultural autonomy and an ambiguous definition of Sámi is about to turn the concept of cultural autonomy for the Sámi people against the Sámi.

Some members of the majority population in the Sámi homelands have organised into a registered group called 'Lappalaiskulttuuri - ja perinnedyhdistys r.y.' (Association for Lapp Culture and Traditions). The association works systematically against the Sámi population and against cultural autonomy for the Sámi people, attempting to prove its own members as the real Sámi and the Sámi people as self-seekers and fakes. The purpose of thisactivity is to undermine the identity of the Sámi minority and to obscure and deny the existence of the Sámi culture. The anti-Sámi group is not interested in the language and culture of the Sámi people. Instead, they try, against the wishes of the Sámi population, to be elected to the Sámi Parliament as Sámi, in order to enjoy the economic benefits they expect to gain and to nullify the Sámi cultural autonomy.

The means used by the group include threats made in public on civil war and violence. The group has publicly spread lies and defamatory comments about Sámi people, their representatives, and officials in Sámi administration, in addition to spreading anti-Sámi propaganda. The group has obstructed the work of the Sámi Parliament by making requests to the police and the highest authorities exercising legality for investigations, and by submitting demands to the supreme courts for the cancellation of the results of the elections for the Sámi Parliament and for the publication of electoral registers on the Sámi, which records on ethnic origin.

The municipalities in the Sámi homelands – Enontekiö and Inari – where the Sámi are a minority, have acted in support of the anti-Sámi activities of the majority population.

A number of news media and journalists, such as the largest provincial daily in Lapland, the major national daily newspaper and a national news agency, have since the spring of 1995 systematically transmitted anti-Sámi propaganda in the name of the 'Lappalaiskulttuuri-ja perinneyhdistys r.y'. This type of activity seems to be increasing and taking harsher forms.

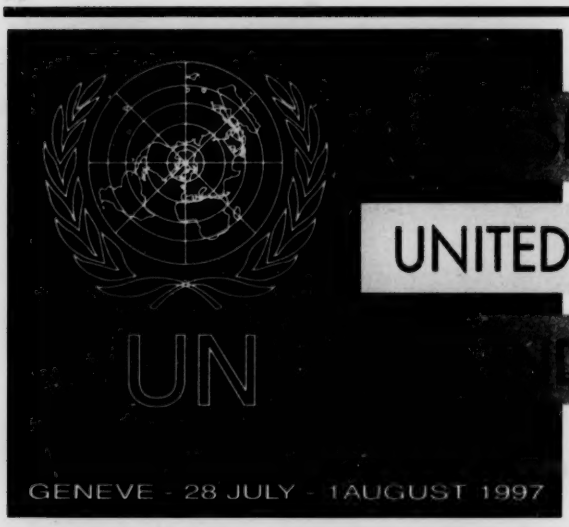
The penal law

To date, public prosecutors have not *sua sponte* held it necessary to, under the Finnish Penal Code, prosecute activities directed against the Sámi. In addition, the Finnish Penal Code (Chapter 11, Section 8) does not in every respect fulfil the obligations under Article 4 of the Convention on the Elimination of Racial Discrimination. The Article requires that the State Party declare illegal, among other things, the following acts:

- all dissemination of ideas based on racial superiority or hatred;
- incitement to racial discrimination against ethnic groups or individuals;
- all acts of violence and incitement to such acts against ethnic groups or individuals;
- assistance to racist activities, including financing;
- organisations which promote racial discrimination;
- organised and all other propaganda activities which promote racial discrimination; and
- participation in such organisations or activities.

All the obligations under Article 4 of the Convention should be incorporated in the Finnish Penal Law in the manner required by the Convention.

This article is based on a position paper from the Finnish Sámi Parliament to the Finnish Ministry of Foreign Affairs concerning the Report of Finland to the UN Committee on the Elimination of Racial Discrimination. ❑



SESSION OF THE UNITED NATIONS WORKING GROUP ON INDIGENOUS POPULATIONS

The Working Group on Indigenous Populations (UNWGIP) held its 15th session from 28 July - 1 August, 1997, under the chairmanship of Ms. Erica Daes. The session was attended by 40 observer governments, 13 United Nations and intergovernmental organisations as well as an ever-growing number of indigenous representatives from all over the world. This year's attendance reached a peak with 887 participants.

This year the Working Group commemorated the first NGO Conference on indigenous peoples at the United Nations in Geneva. This conference was titled *'Conference on Discrimination Against Indigenous Populations of the Americas'* and was held in September 1977. It was this conference which started the process that led to the creation of the UNWGIP.

The 15th session of the UNWGIP was inaugurated with a very impressive opening ceremony starting with a march of indigenous representatives from the 'Palais des Nations' through the UN territory up to the meeting room. Once inside, the indigenous spokespersons as well as United Nations officials gave speeches and greetings to commemorate the event.

In their speeches each paid homage to all indigenous representatives who in the last twenty years had struggled for the recognition of their rights within the structure of the United Nations. Although there was a general recognition that a certain amount of progress had been made, and the importance of the Working Group was acknowledged, all pointed out the long road ahead before their basic rights become fully recognised.

The 15th session of the UNWGIP had as a focal theme *'Land, Environment and Sustainable Development'*, which was discussed extensively. 140 indigenous participants presented their statements under this item. Access to land and resources was identified as the crucial issue for indigenous peoples' physical and cultural survival by the indigenous speakers as well as by Ms Daes' working paper (E/CN.4/Sub.2/1997/17).

The agenda of the 15th session also examined issues such as the concept of 'indigenous' and the establishment of a permanent forum within the United Nations.

Indigenous participants took the opportunity to voice their concerns and views with regard to those agenda items and this edition of *Indigenous Affairs* includes statements presented at the meeting by: Chief Oren Lyons from the Onondaga Nation Haudenosaunee on behalf of North American Indigenous Peoples, the Asian Indigenous Peoples' Caucus, Mr Hjalmar Dahl from the Inuit Circumpolar Conference, Mr Nepuni Piku from the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest, Mr Kuupik Kleist on behalf of the Nordic countries including the Nordic Sámi Parliaments and the Greenland Home Rule Government, Mr Marcial Arias Garcia from the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest and the Grand Council of the Crees.

Opening remarks by Chief Oren Lyons, Onondaga Nation Haudenosaunee, on behalf of North American Indigenous Peoples

I do not see a delegation for the four-footed. I see no seat for the eagle. We forget and we consider ourselves superior, but we are after all a mere part of the creation. And we must continue to understand where we are. We stand between the mountain and the ant, somewhere and only there, as part and parcel of the creation.

UN Geneva, Switzerland, September 1977, Oren Lyons

Today it has come to my responsibility to speak on behalf of the indigenous peoples of the Western hemisphere, more specifically North America, called Turtle Island.

In 1977 I had similar duties as one of the original delegates to that now historic occasion, the Non-governmental Organisation Invitation to Speak on the Prevention of Discrimination and Protection of Minorities in the forum of the Commission on Human Rights, right here in these same halls.

At that time, great efforts were put forward to get indigenous delegates to Geneva to present testimony on the conditions of our peoples. This was accomplished and 160 delegates participated in that event. We came seeking justice in our homelands. We came here to appeal to the world at large to support our efforts to seek equitable solutions to discrimination, exploitation, racism, ethnocide and genocide of indigenous nations and peoples.

The first NGO conference on indigenous peoples at the United Nations 'The Conference on Discrimination Against Indigenous Populations of the Americas' held in 1997
Photo: Max Vaterlaus

We came here to speak on behalf of the natural world being plundered by governments and corporations. We spoke on behalf of rooted trees that could not flee the chainsaw. We spoke on behalf of salmon, herring, tuna and haddock killed in their spawning beds. We had alarming news from the Four Directions about fish, wildlife and birds, contaminated, sick and disappearing. And today we continue to speak on their behalf. Today, they are more endangered than ever, and if anything, their conditions are worse.

What can we report to you about indigenous peoples today? The good news is that we are still here and we intend to be here twenty years from now. We hope that our next generation's report will be better than today's for all concerned.

In 1982 the Working Group on Indigenous Populations was established. We challenged the term 'populations'; we insisted 'peoples' was the proper term, for the simple reason that it would recognise our nations as human beings eligible for human rights. Today, we report limited progress. We note that much of the international community still continues to designate indigenous peoples and populations as minorities, thus preventing the extension of human rights to our peoples. This does not preclude the fact that we are human beings and that this is a moral question that tests the integrity of nation-states.

Modification of principle leads to disintegration of government. At this moment, world leaders are challenged by the rise of rampant unregulated capitalism. We need to remind ourselves that capitalism is not democracy. Governments need peoples; corporations need human resources. A recent study published by World Watch Institute, an international publication, noted that, and I paraphrase, *'of the wealthiest hundred economic units in the world today, 49 are countries and 51 are corporations'.*

The balance of economic power has shifted to corporations where decisions are based upon short-term economic profits. There is little long-term vision – that is left to governments. However, we see little long-term vision by world leaders and we say that profits are being taken today at the expense of our grandchildren and the natural world.

The foundation of the Haudenosaunee (the Six Nations, Iroquois Confederacy, circa 1000 AD) is based upon the principles of peace, equity and justice; power and health of the 'Good Minds'. The founding authority is known as The Great Peacemaker. Among the many instructions he gave, one is especially relevant to the world situation today.

He said: *'When you sit and council for the welfare of the people, think not of yourself, your family, nor even of your generation. Think of the future generation, so that they will enjoy what you enjoy today. This will ensure peace and health for your generation.'* (Guyanashanagonah, The Great Law of Peace, circa 1000 AD).

Leaders today must have the courage and conviction to do what is beneficial

for all peoples to work for the common good. If democracy is to prevail, then you as world leaders must challenge the consolidation of wealth (and the power it brings) into fewer and fewer hands. Beware that corporate 'states' do not eat nations.

Indigenous peoples are just beginning to be recognised as peoples with important fundamental knowledge of the world in which we live. This knowledge has provided our leaders with vision and long-term perspectives that co-ordinate with the natural rhythms of the Earth. This understanding of natural law governed the activities of our peoples. Respect is a law among our nations and peoples. This law guarantees community and peace. In these times, humanity must work together, not just for survival, but for quality of life based upon universal values that protect the delicate interrelated web of life that supports us all.

The natural law is colour-blind and extremely democratic in retributions. Biodiversity is a clinical, technical term for this intricate inter-weaving of life that sustains us. We the indigenous peoples say that we are related to this life; thus your *'resources'* are our relations. It is all in how you look at it. The great efforts put forth at the 1992 Earth Summit in Rio, to gain consensus and mutual support for the protection of the environment, was just assessed at Earth Summit +5 in June 1997. The results were discouraging. Yet, we cannot abandon our responsibilities to our future generations.

We said that in 1977, we say it again in 1997. Indigenous peoples have something to offer in this equation for survival. We have the perspective of time. Living in one place for thousands of years has given us an understanding of the complexities of life forces. Our language are libraries of knowledge that may contain keys to survival, and I use that word advisedly. One of our Elders said a long time ago that *'there will come a time when we will cease to live and begin to exist'*.

For the sake of life and our grandchildren, we can not let that happen in our generation. We have common goals and responsibilities, and I say, that you, the leaders of this great hope of the world's people, the United Nations, should be working with us and not against us, for peace. We submit to you that as long as you make war against Etenoha (Mother Earth), there can never be peace.

Agenda item 4.a: The concept of 'indigenous peoples'

Statement by Asian Indigenous Peoples' Caucus

Madame Chair,

On behalf of the indigenous peoples of Asia, we, the indigenous peoples of Asia represented by the Asian Indigenous Peoples' Caucus at the 15th Session of the Working Group on Indigenous Populations, 1997,

STAND by the position taken by all the indigenous peoples present at the 14th Session of the Working Group on Indigenous Populations in 1996, that we do not accept any attempts to define us or impose a definition from outside;

SUPPORT the position expressed in your working paper (E/CN.4/SUB.2/Ac.4/1997/2, 19 June 1997);

FIND the criteria of the Martinez Report, the notes by the Chairperson/Rapporteur and ILO Convention No. 169 are adequate to determine whether a person or community is indigenous or not.

However, since several Asian governments have expressed the view that a definition was essential and should be developed, and that as you yourself, Madame Chair, have maintained that there is room for a reasonable evolution and regional specificity of the concept of 'indigenous' in practice;

We wish to invite the governments of Asia for an open dialogue and discussion, if necessary, under the auspices of the UN to come to an understanding of the concept of 'indigenous' in the context of Asia.

We hope that such a dialogue will lead to the recognition of the universality of the rights of indigenous peoples.

Agenda item 5.a: Land, Environment and Development

Presentation by Inuit Circumpolar Conference, submitted by Mr. Hjalmar Dahl

Thank you Madame Chairperson for allowing me to take the floor. I would also like to use this opportunity to congratulate you on your re-election as chairman rapporteur of the Working Group. Like previous years we are looking forward to working with you and your colleagues during this session of the UNWGIP.

I represent Inuit Circumpolar Conference (ICC) which is an International Inuit Organisation representing approx. 130,000 Inuit from Greenland, Alaska, Canada and Chukotka in the Russian Federation.

Madame Chairperson:

It is a fundamental objective of the Arctic policy of the ICC to protect the delicate environment, including the marine and other resources on which Inuit depend. The right to a safe and healthy environment is an emerging human right and is especially important to Inuit. Within the vast Inuit homeland, Inuit have the right and responsibility to ensure the integrity of the circumpolar environment and its resources, as a continuing source of life, livelihood and well-being for present and future generations.

As the representative for Inuit in Greenland, Canada, Alaska and Chukotka, ICC enjoys today a Permanent Participant status together with the Sámi Council and association of the Indigenous Minorities of the North, Siberia, and the Far East of the Russian Federation in the Arctic Council, after having worked together in Arctic Environmental Protection Strategy over the last 6 years.

One of the results from this initiative was presented at the ministerial meeting in Alta, Norway in June of this year. The report called Arctic Monitoring and Assessment Programme, (AMAP), revealed that the Arctic, as compared to other parts of the world still remains one of the cleanest environments. But, the report also concluded that certain Persistent Organic Pollutants, including PCBs and many pesticides such as DDT, lindane, toxaphene, and chlordane, produced and used far to the South are now widespread throughout the Arctic. Many do not readily breakdown in our environment but, instead, build up in the fatty tissues of animals and increase in concentration at higher levels in the food chain. This situation leaves us with great worries and concerns, and we still do not know what the long-term effects can be of these findings also on our people. Therefore, our clean Arctic environment is being threatened today by others far from our homelands and of course we, as representatives of our people, are doing ours to influence the eight Arctic countries and other governmental bodies under the UN system and call for im-

mediate action eliminating or at least limiting emissions and uses of pollutant sources.

It is also a necessity for us to urge the nation-states co-operating in the Arctic Council and Arctic Environmental Protection Strategy to look into the local indigenous practices with regard to the implementation of Agenda 21 of the Rio Declaration and the Convention on Biodiversity.

Madame Chairperson:
As aboriginal peoples, Inuit have the right to exercise sufficient control over matters affecting their traditional territories, communities and interests. An integral part of this right to self-determination within states is the right to self-government.

To maximise Inuit self-determination within states, the powers of institutions of self-government must include the exercise of jurisdiction and control over land and waters.

I will be happy to provide the Working Group with a copy of an informative paper on Land, Resource and Environmental Rights – the Case of Inuit in Northern Canada and the Nunavut Agreement. The Nunavut Agreement between the Government of Canada and the Inuit focuses upon ownership and management of land, water, ocean areas and wildlife, and the creation and sharing of wealth created through development of natural resources within the settlement area.

The ICC has also decided to use this opportunity to inform you and the members of the Working Group of what is going on in the Arctic regarding Inuit's respect for the principles of human rights and wishes that our circumpolar homeland must only be used for purposes that are peaceful and safe. None of these objectives are truly realisable isolated from one another.

The so called 'cold war' is over, but nevertheless there are still problems affecting Inuit and new problems are possibly arising.

During the last session of the Commission on Human Rights we informed the members that the forced relocation of the Thule people, Inughuit from the Northernmost part of Greenland back in 1953, still is an issue which has to be handled and solved by the Danish authorities with the involvement and consent of the Inughuit. This has not happened yet. That is the reason why the survivors and their descendants of the Inughuit through their grassroots organisation 'Hingitaq' (Outcasts 1953) have chosen to take the case to the Danish court system to prove misuse of fundamental human rights, to get back the lost hunting grounds and obtain compensation.

Madame Chairperson:
Back in 1951 Denmark and the United States of America entered into a defence agreement concerning Greenland. According to a secret technical schedule to the agreement US Thule Air Force Base was established in the Thule District, seizing a very large area in the centre of the traditional hunting territory of the Inughuit, the Thule people, without consent nor consultation. By US request in reference to military necessity the base was expanded in 1953 leading to the forced removal of the people, the Inughuit -with only a few days notice- from the settlement of Uummannaq.

The local authority first submitted a claim for compensation in 1959 and 1960 for losses incurred by the intrusion into the hunting territory, but the Danish authorities have consistently failed to respond to the claim and thereby failed to provide justice.

Inuit Circumpolar Conference is supporting the claims by the 'Hingitaq 53' to the Danish court. Our involvement in this case is on an advisory basis.

Madame Chairperson:
Another issue which has ended up as a very hot issue in Greenland and Denmark is possible storage of nuclear materials in Greenland. In a report developed by an American corporation called RAND, Greenland is considered as one of the safest areas in the world to store nuclear materials, which has been positively received by Greenland's leading authorities. The last political step in this connection is to start up an impartial investigation on whether or not the possible storage of nuclear materials will be environmentally responsible or safe.

Even though the political argument is to contribute to world peace in connection to possible storage of nuclear materials in Greenland, it is a necessity and most important for the Inuit Circumpolar Conference to reaffirm its opposition to storage and/or disposal of nuclear materials in the Arctic. Since its inception the Inuit Circumpolar Conference has passed numerous resolutions to promote the Arctic as a demilitarised and nuclear-free zone of peace. In addition it has to be emphasised that the ICC back in 1992 adopted the Principles and Elements of a Comprehensive Arctic Policy where one of the sections clearly and specifically states that the Arctic 'must not be used for storage or disposal of hazardous substances of any kind which emanate from other locations'.
Thank you.

Statement given by the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest, by Mr. Nepuni Piku

Chairperson, distinguished delegates and my dear indigenous brothers and sisters. The members of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest from all over the world met in Nagpur, India from 3-8 March 1997 for its third international conference. It was a historic occasion for us indigenous and tribal peoples where we had a week-long consultation and discussion on issues affecting our lives.

Chairperson, while celebrating this meeting, we were saddened by the absence of our sisters and brothers from the Amazon region and Malaysia, whose rights to free movement and association with other indigenous peoples were curtailed by the Indian and Malaysian governments by creating a consular problem.

At this conference, our participants reported cases of serious violations against our peoples. The abuse, Chairperson, has occurred in the name of social progress, national unity, economic development and national/military security which can be considered a case of ethnocide and genocide of the indigenous peoples. Whereas, to the governments that would be a simple case of social change.

The cases of violations filed during the conference included:
- State sponsored alienation of adivasi lands and resources in India;
- Failure to recognise the legal land rights of adivasi people;
- The need of community forest law in Thailand to allow the indigenous peoples to settle in their ancestral homeland and granting of citizenship;
- Mining and logging of Maroon and

indigenous territories in Suriname;
- Abuse of indigenous land rights by mining companies in Guyana, the Philippines and the Pacific;
- Patenting of indigenous genes in Papua New Guinea;
- Unrestrained commercial exploitation of indigenous lands in Indonesia;
- Expropriation of indigenous lands in Sarawak by the Malaysian government;
- Violation of human rights and violent conflicts in Africa;
- Failure to achieve peace in the Chiapas region of Mexico;
- Lack of consultation of indigenous organisations by 'Indigenist' institutions in South and Central America;
- Condemnation of political failure and human rights violation in the North-East of India;
- Oil extraction and despoliation of Ogoni homelands in Nigeria, Africa;
- Call for recognition of indigenous and black communities in Honduras;
- Condemnation of new liberal policies and economies in Panama;
- Demanded Adivasi rights to recognition and self-governance; and
- Call for self-representation and conflict resolution in Fiji.

Chairperson, the power and creativity of indigenous peoples in putting forward alternative perspectives on nation building, economic development, self-sufficiency and conservation were also highlighted and applauded, proving true the statement 'If Indigenous peoples survive, the world will survive'.

The conference participants affirmed the safeguarding of our lands, forest, waters and identities as requirements to survival as peoples, at a time when economic globalisation driven by neo-liberal policies has meant intensified invasion and consumption on indigenous and tribal homelands.

Chairperson, we the indigenous and tribal peoples are convinced that in the light of these experiences the adoption of the UN Draft Declaration on the Rights of Indigenous Peoples and the General Assembly, and its implementation through national legislation and reform is an agenda for urgent action.

We the International Alliance of the Indigenous and Tribal Peoples of the Tropical Forest believe that the indigenous-tribal peoples can be partners with the international community in seeking solutions to global problems related to land, environment and development.

We appeal for more space in the spirit of mutual respect for a healthier dialogue and partnership between the government's and the indigenous tribal peoples.

Thank you for your kind attention.

Agenda item 8: Consideration of the Establishment of a Permanent Forum for Indigenous People

Statement by Mr. Kuupik Kleist on behalf of the Nordic countries, including the Nordic Sámi Parliaments and the Greenland Home Rule Government

Thank you, Madam Chairperson.

Speaking on behalf of Denmark, Finland, Greenland Home Rule Government, Iceland, Norway, Sweden including the Sámi parliaments of Finland, Norway and Sweden I am pleased to take the floor on agenda item 8, entitled 'Consideration of a permanent forum for indigenous people', which we consider as one of the most important items of the Decade and of this meeting.

The Nordic countries strongly support the establishment of a permanent forum for indigenous peoples in the United Nations system.

I also wish to take this opportunity to express our gratitude to the Government of Chile for hosting the second workshop and for facilitating the whole event including excellent facilities and accommodations. Also, thanks to the UN Centre for Human Rights for successfully organising this event in Chile. The turn-out for the workshop was a success. The workshop was attended by more than 100 participants, including more than 10 United Nations bodies, organisations and specialised agencies. The large number of participants is a clear sign that there is a growing interest in all parts of the UN-system and in the international community for the idea of a permanent forum. A very important exchange of views took place, and a fruitful debate was held during the workshop in a true spirit of partnership.

We now have the 'Draft Report of the Workshop held in accordance with Commission on Human Rights res. 1997/30' in front of us (Doc.E./CN.4/Sub.2/AC.4/1997/CRP.1). The report reflects in an adequate manner the comprehensive and rich debate we had in Santiago de Chile. Therefore, there is no need for us to enter into much detail in the following comments. However, the Nordic countries wish to mention some points which are of importance to us.

The report shows that all speakers found that the Review of the Secretary-General established an important point of reference for the deliberations of the meeting. The Nordic countries along with the majority of the participants found that the review points at the clear need for a permanent forum, showing that there are virtually no mechanisms within the United Nations system which give indigenous peoples an opportunity to take part in policy and decision-making processes.

Turning to the discussion on the permanent forum, substantial progress was made on fundamental questions concerning the mandate, membership and financial implications of a permanent forum. The Nordic countries and many of the participants found that the mandate of the forum should be broad, in order to take up all issues affecting indigenous peoples within the framework of ECOSOC. On the membership issues the Nordic countries were among the many participants who expressed the view that the forum should be composed of an equal number of governmental and indigenous representatives – both groups with the right to vote. As to the membership the forum should have around 20 members, representing a geographical balance and nominated by their regional groups.

On the financial implications we and many other participants found it appropriate that the forum be funded by the regular United Nations budget. The Nordic countries also consider that voluntary contributions should be made available if possible.

The Nordic countries envisage that the establishment of a permanent forum should be seen as part of the reform process of the United Nations and that it would add value to the United Nations system.

Drawing the attention to the conclusion of the workshop which is very well reflected in the report the Nordic countries fully support the suggestion made, that 'the Commission on Human Rights at its 54th session consider how to further the process towards establishment of a permanent forum for indigenous people within the UN system, inter alia through the drafting of a concrete proposal'.

As the indigenous peoples' concerns both cover human rights as well as social,

economic, cultural and environmental affairs the Nordic countries along with most of the other participants found that the permanent forum should be established at the highest level of the United Nations system and most appropriately directly under ECOSOC. We therefore encourage the working group to propose to the Commission on Human Rights to consider the possibility of submitting the matter to ECOSOC.

As agreed upon at the workshop, the Nordic countries want to stress the importance of annexing the four documents made available at the workshop to the report. These documents, inter alia the Danish Working Paper on an Outline of a Permanent Forum for Indigenous People and the Temuco Declaration, form an important basis for the further work on this issue at the next session of the Commission on Human Rights.

In order to gain momentum in the process the Nordic countries would urge the working group to submit the report together with any comments arising from this discussion to the Sub-Commission at its upcoming session. It is important that the drafting process starts as soon as possible, in the spirit of partnership and with active participation of indigenous peoples.

The report will now be circulated to governments, the United Nations system and organisations of indigenous peoples. It is our hope that all interested parties will comment on the report in order to contribute to the further debate in the Commission of Human Rights. This will provide the Commission with the most appropriate basis in order to further the process on the establishment of a permanent forum.
Thank you, Madam Chairperson.

Statement by Marcial Arias Garcia, Panama, for the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest

Madame Chairperson:
Allow me to make a statement on behalf of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest on item 8 which concerns the establishment of a permanent forum for indigenous peoples.

Madame Chairperson, I have participated in two UN seminars on the establishment of a permanent forum for indigenous peoples and not once have I experienced any opposition from governmental representatives, NGOs or indigenous peoples to its establishment. There is a difference of opinion on the forum's capacity which has led some to insist on a definition of the term 'indigenous people'. And still others are concerned with a possible duplication of the Working Group's work.

The Secretary General's report also reaffirms the need to create mechanisms for indigenous peoples within the UN system by pointing out that no mechanism exists allowing indigenous peoples the opportunity to take part in the making of decisions.

In this sense, Madame Chairperson, we can not continue prolonging the discussion through seminars. We firmly believe that it is necessary to take stronger steps to ensure the forum's establishment. Therefore, I ask this Working Group to consider the second workshop's recommendation that at its 54th session the Commission on Human Rights examine how the process to establish the forum can be furthered. This should not be justified by reference to the reforms being carried out by the UN; I believe that the reforms should take into account the changes which already exist.

Today, we are commemorating 20 years of indigenous participation in the UN system. If the reforms seek to truly reform the current state of the UN there would be recognition of the full participation of indigenous peoples at the highest level of the UN system. Only then would we be talking about the real reforms the UN system needs. Peoples whose voice has been historically denied and who have been totally isolated from the decision-making process regarding problems which concern them would be given the opportunity to be heard.

Madam Chairperson, it would have been extremely important if this Working Group were to have examined the Secretary General's report with regard to the review of existing mechanisms, procedures and programmes within the United Nations concerning indigenous peoples as this report presents the tangible reality of the indigenous peoples in the UN system.

Finally, Madam Chairperson, I invite the governments and my indigenous brothers and sisters to support the recommendations of many of the second workshop's participants to establish the permanent forum at the ECOSOC level.
Thank you very much.

Statement by the Grand Council of the Crees

1. The Grand Council of the Crees attended the recent workshop on a Permanent Forum for Indigenous Peoples in Santiago, Chile.

2. We welcome the report of that workshop. We would point out that the idea for the establishment of a permanent forum is receiving renewed and additional support from several states, and that states that previously opposed the establishment of a permanent forum have now softened their positions, stating instead that they have not formed a judgement on its establishment.

3. It is important to point out that there was consensus on a critical point: all of the participants, indigenous peoples and states alike agree that the Report of the Secretary General demonstrates that at present the United Nations System does not adequately serve the needs of the world's indigenous peoples.

4. In our opinion this demonstrates the need to establish a Permanent Forum for Indigenous Peoples.

We have now held two workshops and it is more than evident that we must move ahead with the establishment of the permanent forum. Madame Chairman, I would like to make some proposals that I would ask this Working Group in its report to put forward as recommendations. We want to see the permanent forum established within the International Decade and must take action now if this is to be done.

We ask this Working Group in its reflection upon the report of the 2nd Workshop on a Permanent Forum for Indigenous Peoples, held in Chile, to call upon the Commission on Human Rights to decide on the establishment of a permanent forum and to move this issue on to the Economic and Social Council.

We ask that the Working Group recommend the immediate establishment of an advisory post within the office of the Secretary General to co-ordinate and strengthen the response of the United Nations on indigenous issues and to co-ordinate the necessary steps that will lead to the establishment of a permanent forum within the United Nations.

Madame Chairman, we ask the Working group to take this initiative to bring to fulfilment the proposal approved by the Vienna Summit on Human Rights. ❑

BOOK REVIEWS BOOK REVIEWS

COMMENT:

There is Something Rotten in the 'States' of Australia....

Since 1993 Michael Dodson has annually published the 'Native Title Report' and the 'Annual Report'. This year's editions are the last, as Michael Dodson's term as Australia's first Aboriginal and Torres Strait Islander Social Justice Commissioner is coming to an end. The Australian Government apparently is not planning to prolong his employment, a fact the rest of us can only deeply regret. It is yet another symptom of the changed policies towards Aboriginals and Torres Strait Islanders that Prime Minister John Howard and his government are conducting.

Michael Dodson's reports have each year provided us with invaluable material on the indigenous peoples' situation in Australia and insights into and reports of each year's political happenings and events that are related to the indigenous peoples of Australia. This year's final reports from Michael Dodson are sinister reading.

Both reports reflect the sad state of the current situation in Australia. Aboriginals and Torres Strait Islanders are facing a strong backlash both in the form of the government's Wik-legislation: a 400-page Amendment Bill that in reality extinguishes the Native Title Act, but which is also a deterioration of conditions for Aboriginals and Torres Strait Islanders in society in general, especially in attitudes towards the indigenous peoples of Australia and in withdrawal of welfare programmes aimed at Aboriginals and Torres Strait Islanders. It is with growing astonishment and disbelief that governments and peoples outside Australia follow the proposals and the altered policies of the Howard government. The new position on indigenous policies taken by the Howard government has also been felt in international fora, i.e. the UNWGIP meeting in Geneva this year.

Mr. Dodson puts in perspective the last year's developments and how the government's policy towards Aboriginals and Torres Strait Islanders has undergone an about-turn since the beginning of 1996 when Mr. Howard came into office.

Australia's first peoples have, since colonisation, always suffered from the lack of any treaty with the colonising white societies that settled in Australia. Although there are only a few examples that First Peoples elsewhere in the world have been treated fairly and justly, treaties have in some places provided a base for juridical recognition and even (albeit ridiculously small) economic compensation. The first peoples of Australia and the Torres Strait Islands did not even get this kind of minimal recognition. According to the foreign white settlers there was nothing but fauna, and Australia was Terra Nullius: empty land. The doctrine of Terra Nullius was only partly breached with when the High Court of Australia made its Mabo and Wik decisions, the latter confirming that Native Title was not necessarily extinguished by pastoral leases and other rights. Native title is entitlement to use of land for traditional purposes, if you as an indigenous people can prove a continuous relation to a specific area. It is a very limited granting of rights, and is by no means comparable to ownership. What John Howard probably wants to achieve with his Amendment Bill is the once and for all extinction of native title, although he tries to convince the rest of the world that this is not the case.

Since the Referendum in 1967 when Aboriginals and Torres Strait Islanders came to enjoy the same rights as non-indigenous Australians, there has been a slow but steady development that has ameliorated conditions for the indigenous peoples of Australia. The ultimate peak was when the Native Title Act came into existence in 1993. A possibility for recognition of such fundamental human rights as the right to their own land was suddenly possible. That is why the Amendment Bill is such a major backlash to the Aboriginals and TorresStrait Islanders. Australia is still a society ripe with prejudices and discrimination that Aboriginals and Torres Strait Islanders have to face and live with every day. Michael Dodson documents this thoroughly in the appendixes to the Annual Report.

Both of Mr. Dodson's reports present the indigenous peoples' response and position to the government's new policy. The question Mr. Dodson raises is why the government is so adamant in its policies towards Aboriginals and Torres Strait Islanders. According to him it can perhaps only be answered with lack of knowledge and understanding of the issues, if it is not a question of sheer racism. As Michael Dodson points out the white settlers not only brought dispossession of the first peoples with them, they also brought a legal tradition that recognises basic possession rights and other human rights - basic values that are the core of the government's policy towards all other ethnic groups in Australia except the Aboriginals and Torres Strait Islanders. Why is it then, that these values and rights are not applied when it comes to the indigenous peoples of Australia? Why are young Aboriginal put away in custody thousand of miles from relatives and family for minor crimes, when at the same time the government supports the family as the basic element to build a society upon. The keeping in custody of young Aboriginals is surely destructive, and it could be easily solved if the Aboriginal local communities and families were involved. As it is said 'It takes a village...' to raise a child, but present practices and the institutions of keeping in custody surely allow no Aboriginal village to take on this responsibility. Michael Dodson also reports on the horrible conditions in connection with minor law breaches that young Aboriginals are forced to suffer under. The government does nothing. Why hasn't any Amendment Bill been put to Parliament abolishing the present custody system?

One of Michael Dodson's very fine points is the description of the peaceful coexistence between white settlers and Aboriginals in the cattle industry. Without the indigenous workforce there would have been no cattle industry in Australia. It has been a source of wealth and prosperity, at least to the whites. But in this coexistence one can find a model for a solution to all the misunderstandings and abuses that take place. This is of course a political question, i.e. whether this kind of coexistence is a desirable goal. But the Australian Government should at least work for the respect of the basic human rights of all its citizens, especially the rights of the descendants of the peoples who, through their ancestral heritage, hold the birthright to the land in Australia.

The relation to land is of such central importance to both the cultural and physical survival of Australia's first peoples. According to Aboriginals the Amendment Bill implies a violation of their property rights. Moreover, Aboriginal and Torres Strait Islanders' religious practices are intimately connected to sacred sites and the land itself. To deny access to land and protection of sacred sites and places of religious practices is to deny Aboriginals and Torres Strait Islanders the right to their religious identity and, on a broader level, the right to existence as distinct peoples with their own cultures.

It is this right John Howard is extinguishing when he and his government extinguish native title. Michael Dodson's reports clearly illustrate this and describe all the violations of basic rights the indigenous peoples of Australia have to live with.

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***Michael Dodson**, Aboriginal and Torres Strait Islander Social Justice Commissioner, Fifth Report 1997, Human Rights and Equal Opportunity Commission, Commonwealth of Australia.*

***Michael Donson**, Native Title Report July 1996 - June 1997, Human Rights and Equal Opportunity Commission, Commonwealth of Australia.* ❑

BOOK REVIEWS BOOK REVIEWS

Community Forest Management in Protected Areas

by Andrew Gray

All over the world indigenous peoples face the imposition of protected areas over their ancestral territories. In Latin America over 80 per cent of protected areas have been established on indigenous lands while in India over 600,000 tribal people and forest dwellers have been displaced to make way for environmental conservation. The book *Community Forest Management in Protected Areas: Van Gujjars Proposal for the Rajaji Area* takes on these issues directly, not only by analysing the inaccurate and discriminatory principles by which conservationists and government institutions establish and manage protected areas, but by proposing solutions.

The Van Gujjars are a nomadic forest people numbering about 7,000, who live in the Shiwalik hills in northern India not far from Dehra Dun. Their transhumant lifestyle involves looking after their buffaloes in lower forest pastures, about 2,000 feet high in winter, and moving 200 kilometres for the summer months between April and September to the cooler hill areas of about 10,000 feet. They are a self-sufficient people, relying on the forest to provide their livelihood and provide for their buffaloes. They also have important trade relationships with local sedentary villages.

In 1983 official notification was made of the intention to create the Rajaji Park covering 825 square kilometres integrating the Chilla, Rajaji and Motichur Wildlife Sanctuaries along with some reserve forest under the control of the Forest Department. The Van Gujjars and villagers from around the boundary of the proposed park were not consulted; indeed the original plan for the park was to evict them from their territory and remove them forcibly to a new settlement outside of the protected area. The Van Gujjars refused to be relocated and eventually the Uttar Pradesh government accepted that their wishes should be respected.

The Van Gujjars did not object to the idea of a park but they did not want to lose control over their lands and resources. Meanwhile, the Forest Department took responsibility over the whole proposed park area and, through a severely misguided administrative structure, seriously affected the livelihoods of the Van Gujjars. Poaching, corruption, misinformation and threats have been constant problems for the Van Gujjars in recent years.

The book documents ecological problems in the proposed park: forest deterioration, the depletion of ground vegetation, weed infestation, problems from wildlife, increased soil erosion and forest fires. The Forest Department blames the local Van Gujjars and villagers for these ecological problems and on this basis argued for their eviction from the area. However, the book describes each problem in depth and shows that far from the Van Gujjars being the cause of the ecological problem, the administrative structure of the Forest Department is fundamentally to blame. Furthermore, the analysis demonstrates how the Van Gujjars have protected the whole area of the proposed park for centuries through their environmentally sensitive lifestyle.

Instead of forcibly relocating indigenous peoples, an increasingly popular proposal for solving conflicts between parks and peoples is based on 'Joint Forest Management' where local people participate in the administration of a park and the government and local communities share responsibility in a partnership. However, in an excellent analysis of this form of 'joint partnership', the book shows that the Van Gujjars and the authorities can never run a park together as equals. In the first place, the political relationship between the parties is not equitable. The Van Gujjars find themselves reacting to outside initiatives and are not in control of their own lands and resources. Furthermore, the villagers in and around the park live in symbiosis with the Van Gujjars and they also need to be incorporated sensitively into any management plan.

Instead of unequal participation which would receive no legitimacy from the Van Gujjars, the book proposes a model of Community Forest Management of the protected area where the local communities take initiatives and manage their resources while the state provides a monitoring and supportive role. The Van Gujjars have demonstrated for centuries that they can manage this area, the book provides an astute and clearly written proposal as to how this can continue. The principles of control over resources and consent for the establishment of any park are fundamental.

The book makes it plain that many of the current problems facing the area are structural and that a new administrative structure is necessary. It proposes a democratic model of indigenous institutions (based on the Van Gujjar households and localities as well as villages) and links these into more all-embracing regional committees. At each level, representatives of other interests are included in the committees; but fundamentally, the Van Gujjars should control their lives and destinies. The book also explains the need for parallel local technical support in the form of training and development programmes.

The book ends by suggesting a series of practical steps whereby this proposal could gradually become a reality, moving out from a core area to include the villages and gradually the whole protected area. In this way the Van Gujjars' nomadic life can be supported and the Rajaji proposed park protected.

RLEK have carried out excellent fieldwork and have provided a book which could serve as an inspiration in India and much further afield. All that remains is that the political and economic conditions can be made available so that the Van Gujjars can at last control the Rajaji National Park and that constructive solutions can be found to combat the multitude of problems facing indigenous peoples who live in protected areas.

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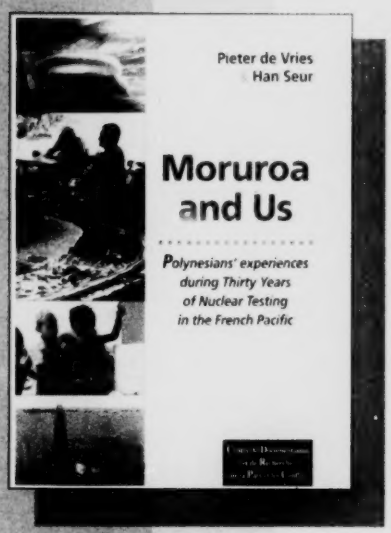
Rural Litigation and Entitlement Kendra (RLEK). *Community Forest Management in Protected Areas: Van Gujjars Proposal for the Rajaji Area.* Dehra Dun: Natraj Publishers, 1997. ISBN 81-85019-64-9.

***Andrew Gray** is an anthropologist and member of the international board of IWGIA.* ❑

BOOK REVIEWS BOOK REVIEWS

THIRTY YEARS OF NUCLEAR TESTING: THIRTY YEARS OF SILENCE



by Diana Vinding

From 1966 to 1996 the French Government tested almost 200 atomic bombs in French Polynesia (the exact number is not officially known). During the period up to 1975 the nuclear tests were atmospheric, and 45 bombs were detonated over the atolls of Moruroa and Fangataufa. From 1975 onwards the tests were carried out underground and mainly on Moruroa. During that period more than 150 bombs were exploded.

'Clean and harmless'

How did this massive nuclear test programme affect the health of the Polynesians and their environment? Shockingly, very little is known. For thirty years France has surrounded its testing programme with an atmosphere of secrecy. And despite the well-documented consequences of the United States' nuclear tests in the Marshall Islands (atmospheric) and the Nevada desert (underground) in terms of radioactivity and nuclear contamination, the French Government has always maintained that their tests were 'clean and totally harmless'.

It is, however, known that there have been a number of serious accidents in relation to the French tests. To cite only two: in 1971 several islands in the Gambier and Tuamotu archipelago were contaminated by radioactive fall-out and the population was temporarily evacuated; in 1981, a strong cyclone uncovered more than 10 kilograms of plutonium which had been buried on Moruroa under a layer of asphalt and 2,500 civilian technicians threatened to strike if the waste was not cleaned up.

The Polynesians and other concerned persons and groups have over the years protested, claiming that there were many indications that the nuclear tests were impacting on the health and well-being of the islanders, that, just like it had been the case in the Marshall Islands, the number of cancer cases, miscarriages, stillbirth and other ailments that could be attributed to nuclear testing had increased over the years. Several governments including that of New Zealand and of Australia, have accused France of endangering the environment as well as the livelihood of the peoples living in the Southern Pacific region.

Thirty years of silence

All this has been to no avail. Repeated demands for research addressing the relationship between testing and the increase in the incidences of various types of cancer and other diseases have not been taken seriously. For many years cases of cancer were not registered, and even today, medical and epidemiological statistics are not reliable. Hospital files are not accessible on the grounds that the hospitals are under 'military administration'.

Nor has there been any research on the possible relationship between reef damage caused by the construction of the test centre infrastructure and the alarming increase in ciguatoxic poisoning (ciguatera) caused by fish consumption. The three independent scientific missions that during the '80s, after much international pressure, were given permission to investigate the level of radioactive contamination and the ecological state of the atoll were only allowed to visit the atoll on short notice, for only a few days and under extremely restricted conditions. According to the French, the missions clearly

showed that nuclear testing at Moruroa did not represent a risk, but the scientific debate raised by the missions shows that there is and there has been no agreement within the scientific community as to the effects – especially the long-term effects – of both the atmospheric and underground nuclear tests.

The Polynesians' experiences

All this is documented in a new book, *Moruroa and Us - Polynesians' experiences during Thirty Years of Nuclear Testing in the French Pacific*, written by two Dutch sociologists - Pieter de Vries and Han Seur, with the support and help of the Polynesian NGO Hiti Tau, the Eglise Evangélique de Polynésie Francaise and many other committed Polynesians.

The purpose has been to bypass the lack of basic information by giving voice to former 737 test-site workers and islanders living in the vicinity of Moruroa and Fangataufa, and document their anxieties and uncertainties concerning nuclear testing.

It is not officially known how many Polynesians worked for the CEP (Centre d'Experimentation du Pacifique). Estimates run between 10,000 and 15,000. But it is the first time since the beginning of the tests in 1966, that former test site workers are the subject of an independent inquiry which looks into how they were recruited, the types of work they carried out, how they experienced the tests, and how they perceived the risks. The book also describes their feelings of anguish, fear and powerlessness as to what the future may bring to themselves, their families and their communities as a consequence of the tests.

To complete the picture, a number of institution representatives from the Government, Health Ministry, churches, political parties, trade-unions and anti-nuclear activists have been interviewed as well and the book furthermore gives a concise report on the scientific debate about the risks of nuclear testing.

The result is a well written and sober report with much disturbing and thought provoking information: 33 per cent of the test-site workers were employed for more than ten years; 10 per cent of the workers were recruited although they were under the age of 18 (6 per cent were even children under 16 years of age); 49 per cent had spent time in possibly contaminated areas, 41 per cent had worked in possibly contaminated areas and for the majority of them this had taken place during the atmospheric era (1966-1974). Among those who had worked in possibly contaminated areas, 38 per cent stated that at times they were exposed to radioactivity or contamination. At the same time, it appears that there was inconsistency in the implementation of the safety rules and regulations, and more than half of the test-site workers admitted fishing and consuming the catch despite rumours that the sea could be contaminated.

What future?

Not surprisingly, one of the main anxieties of the former test-site workers concerns their health and the health of their offspring. But research on the long-term effects of the nuclear testing programme on the health of the test-site workers has never been contemplated by the French, and it seems that the French authorities did not even bother to collect relevant data on this subject: although almost all employees (94 per cent) had a medical examination before they arrived at the sites, and 65 per cent of them were also examined while working for the CEP, only 48.5 per cent were examined at the end of their stay at the sites.

The inquiry also reveals a number of specific cases of individuals who were exposed to the risks of radioactive contamination with dramatic consequences. All these people had one thing in common: that after becoming ill or learning about deeply disturbing events they had to face a wall of disbelief and disinterest on the part of the French medical experts, and some were even subject to intimidation by the authorities.

Not surprisingly, and although the tests have now been stopped, a large majority of the respondents think it is important to continue with the discussion about the possible consequences of nuclear testing and that a thorough epidemiological investigation should be undertaken in order to answer some of their most pressing questions.

The issue should not be forgotten

In 1996 France decided to stop nuclear testing, thereby assuaging world opinion. But, as the authors write, 'the fact that France and the world seem to have turned the page must not mean that we can simply forget about the problems former workers and the Polynesian population as a whole are facing'.

Moruroa and Us is an important contribution to the debate surrounding the nuclear programme. It is also a message to the international community not to forget the Polynesians' struggle to obtain answers to the questions they have been asking for so many years. Without international pressure it is highly doubtful that the French authorities will ever accept their responsibility and address the problems the former employees of the CEP are faced with. ❑

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Pieter de Vries and Han Seur
Moruroa and Us - Polynesians' experiences during Thirty Years of Nuclear Testing in the French Pacific

Lyon: Centre de Documentation et de Recherche sur la Paix et les Conflits, 1997. ISBN 2-9508291-5

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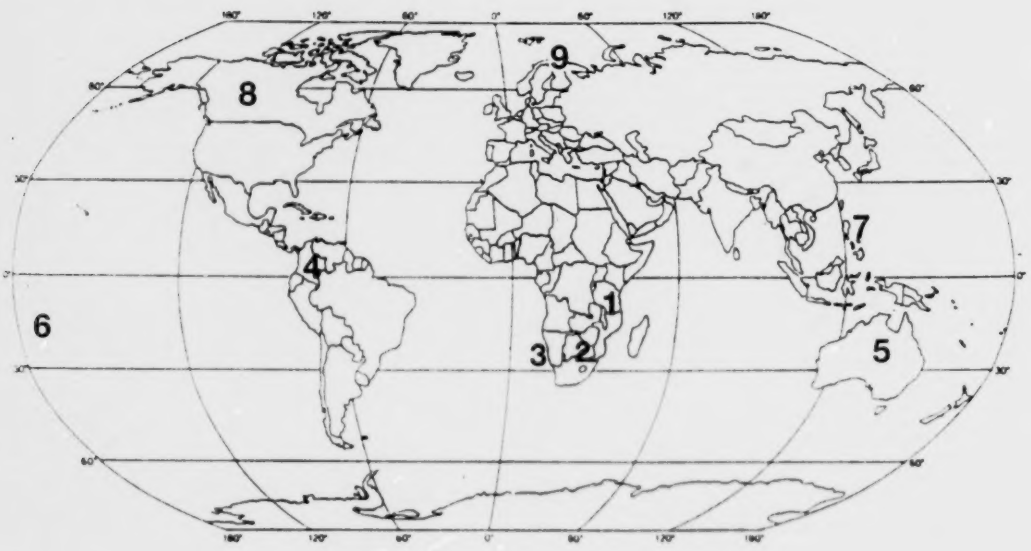

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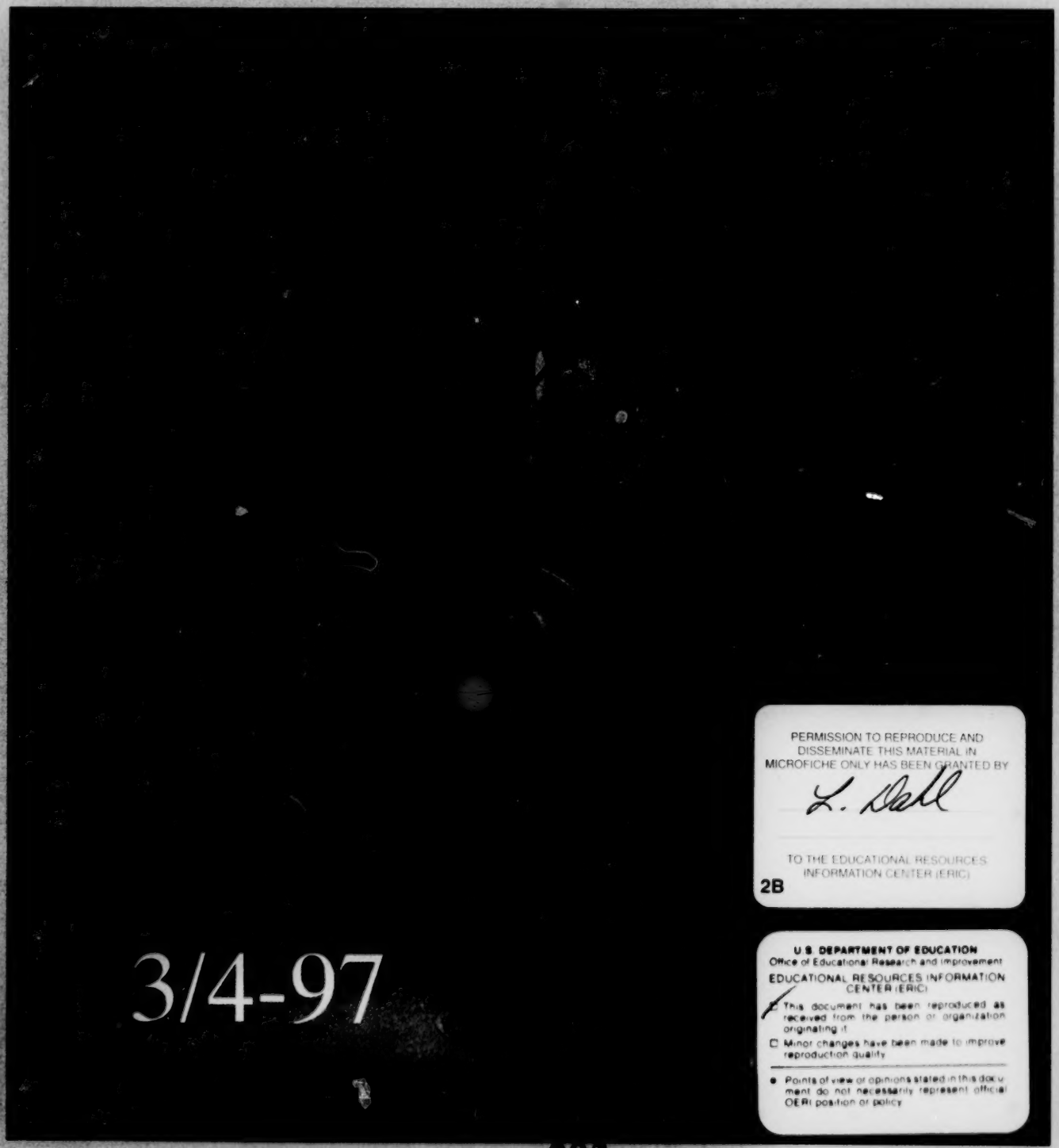

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Editorial

A pesar de la participación de los pueblos indígenas, cada vez mayor y más expresiva, en la arena política internacional, la situación de los derechos humanos de los pueblos indígenas sigue siendo globalmente mala.

La rápida pérdida de territorios ancestrales y la pérdida de acceso y control sobre los recursos de la tierra constituyen una importante amenaza para las vidas, las culturas y la dignidad de los pueblos indígenas. Los representantes indígenas han tratado de explicar al mundo en muchas ocasiones que las tierras y territorios ancestrales no son sólo un fundamento para la supervivencia física y para la continuación de su modo de producción. Las tierras y territorios son también elementos cruciales para su mundo cultural y espiritual como un todo - un vínculo con el pasado, esencial para la práctica continua y el desarrollo de la identidad indígena.

La importancia fundamental de los derechos territoriales es destacada en los instrumentos internacionales de derechos humanos como el Proyecto de Declaración sobre los Derechos de los Pueblos Indígenas.

Sin embargo, la realidad se presenta diferente. Los territorios ancestrales de los pueblos indígenas están frecuentemente situados en áreas ricas en recursos y de una importancia económica importante para los estados y para el capital multinacional. Esto se extiende desde minerales como el oro, el carbón, el cobre y el petróleo hasta vastos recursos acuáticos y madereros y a áreas con elevado potencial para el desarrollo turístico. Los estados y las gigantes compañías nacionales y multinacionales están invadiendo los territorios indígenas en una escala en constante aumento, en busca de beneficios. Los pueblos indígenas están luchando en todo el mundo para mantener o recuperar los derechos y el control sobre sus territorios. Se enfrentan a fuerzas poderosas y la lucha es ardua.

Los pueblos indígenas africanos enfrentan problemas tremendos. Muy pocos estados africanos reconocen tener poblaciones indígenas y que se debería tomar cualquier medida para salvaguardar sus derechos. Y los grupos indígenas, sumamente marginados, están constantemente enfrentados a la pérdida de territorios, violaciones de derechos humanos y condiciones de vida muy pobres. Las organizaciones indígenas africanas están surgiendo y expresándose y tratan de accionar contra las injusticias. Sin embargo, estas organizaciones no son todavía tan fuertes y experimentadas como otras organizaciones indígenas del resto del mundo. El concepto guía para muchos estados africanos es la «Unidad Nacional», subrayando que todos los grupos étnicos dentro del estado nacional deberían adherir a una identidad nacional común. Esto es en muchos aspectos comprensible ya que los conflictos étnicos y el tribalismo son una amenaza muy real para la paz y la estabilidad de muchos estados africanos. No obstante, el concepto de «Unidad Nacional» es también fácilmente malversado por los estados para oprimir a cualquier grupo que se exprese y demande que sus derechos territoriales, y por lo tanto toda su cultura y estilo de vida, sean respetados y protegidos. Los ejemplos de tal represión son múltiples. En esta edición de Asuntos Indígenas presentamos ejemplos de Tanzania, Namibia y Botswana.

En el artículo *«Futuro incierto para los maasai de Ngorongoro»*, de Charles Lane, se describe la desesperada situación del pueblo *maasai* del Área de Conservación Ngorongoro en Tanzania. Muchos maasai sufren ahora hambre ya que la producción ganadera ha disminuido seriamente debido a la falta de acceso a las pasturas y a las enfermedades del ganado. El Área de Conservación Ngorongoro es el destino turístico más visitado de Tanzania, pero son los hoteleros internacionales y el estado tanzaniano los que obtienen los beneficios en vez de los residentes locales maasai. A los maasai se les niegan los derechos de propiedad y las organizaciones internacionales para la conservación trabajan para que sean expulsados del área.

La situación igualmente desesperada de los restantes *bosquimanos* que viven en la enorme Reserva de la Fauna del Kalahari Central, en Botswana, es descrita en el artículo *«Continúa elreasentamiento de las*

Portada: *Foto: Mark Hakansson*

Marianne Jensen

comunidades khwe», de Christian Erni. La Reserva de la Fauna del Kalahari Central es una de las áreas protegidas más grandes de África y uno de los últimos lugares de Botswana donde los bosquimanos tienen la posibilidad, en cierta medida, de practicar su estilo tradicional de vida. No obstante, el gobierno de Botswana está tratando ahora de trasladar a los bosquimanos fuera de la reserva de la fauna. Muchos han sido ya trasladados a poblados fuera de la reserva de la fauna, donde las condiciones de vida son deprimentes y el alcoholismo es generalizado. Otros están todavía tratando de resistirse al traslado, pero se encuentran sometidos a una fuerte presión y será a último minuto si logran plantear una reivindicación de tierras y obtener derechos de propiedad sobre su territorio ancestral.

En Namibia, la situación del pueblo *himba* es también muy crítica. Terese Sveijer describe en su artículo *«La lucha del pueblo himba contra la planeada construcción de una represa»* como los pastores himbas, que viven en una parte remota y seca del norte de Namibia, están seriamente amenazados por los planes del gobierno de Namibia para construir una enorme represa para la producción de energía eléctrica. Muchas de sus áreas serán inundadas, incluyendo importantes cementerios ancestrales y todo su estilo de vida está en peligro. No se ha realizado casi ninguna consulta con los himbas, quienes ahora están a último minuto tratando de expresarse contra el proyecto planeado.

Además de los proyectos de represas y la industria turística, la minería es una importante amenaza para los territorios de los pueblos indígenas. Este es el caso de los pueblos indígenas de las Filipinas, y en el artículo *«La minería aurífera y la amenaza a los derechos de los pueblos indígenas de las Filipinas - El caso de los subanen»*, Geoff Nettleton describe como algunas de las mayores compañías mineras del mundo compiten para explotar los grandes depósitos minerales de las Filipinas. Son atraídas por las condiciones que se encuentran entre las más favorables del mundo para las compañías mineras. Muchas de las compañías han adoptado un nuevo estilo de relaciones públicas para mejorar su imagen. Sin embargo, los procesos de consulta con los pueblos indígenas locales son todavía pobres y muchos pueblos indígenas como los *subsanen* se resisten a las operaciones mineras que arruinarán sus tierras ancestrales.

En Colombia, la situación de los pueblos indígenas se está deteriorando y durante los meses pasados el clima de violencia se ha profundizado. Esta edición de Asuntos Indígenas informa sobre los abusos que se continúan cometiendo en Coqueta y el Choco, donde numerosos indígenas han sido asesinados. También en el caso del Perú los indígenas asháninka tienen dificultades en el proceso de retorno a sus comunidades, tal como lo explica el coordinador de la Selva Central, en una entrevista a IWGIA.

No obstante, esta edición de Asuntos Indígenas también relata sobre progresos y acontecimientos positivos. Uno de estos ejemplos es el establecimiento de Nunavut en el nordeste de Canadá. Aquí, los *inuitas* han obtenido derechos territoriales a una gran área, y un acuerdo político que llama al establecimiento de una región autogestionaria, Nunavut, en 1999, ha sido adjunto al acuerdo de la reivindicación de tierras. Como se describe en el artículo *«¿Equiparación de género en Nunavut?»*, por Jens Dahl, los preparativos para el establecimiento de las instituciones para tal autogestión resultaron recientemente en un plebiscito sumamente interesante. El tema era si el nuevo territorio autogestionario de Nunavut debería tener una asamblea legislativa con un número igual de hombres y mujeres, o no. La propuesta fue rechazada, pero, sin embargo, muchos votaron a favor. Este plebiscito es interesante por muchas razones. Refleja que una cultura indígena como la inuita de Nunavut no es ni homogénea ni estática. Es una cultura dinámica y amplia que cambia y se desarrolla junto con el mundo circundante. Pero en sus propios términos y basada en una genuina autodeterminación.

En un momento también pareció como si la situación de los *aborígenes* de Australia mejoraría finalmente. El momento cumbre fue cuando la Ley del Título Nativo entró en vigencia en 1993, haciendo posible el reconocimiento de derechos fundamentales como los derechos a la tierra. Sin embargo, el 4 de septiembre de este año, el gobierno australiano introdujo cientos de páginas de enmiendas a la Ley del Título Nativo con el propósito de extinguir la mayoría de losderechos aborígenes reconocidos por la Suprema Corte sólo de palabra. En el Artículo *«Australia: ¿Avanzando o retrocediendo?»* Olga Havnen nos brinda un relato impresionante sobre como la situación de los derechos humanos de los pueblos indígenas australianos se está deteriorando seriamente bajo el actual gobierno de Howard, y como todavía florece el racismo en la sociedad australiana.

La situación del pueblo *saami* en Suecia, Noruega y Finlandia es mejor comparada con la de muchos otros pueblos indígenas que viven en estados pobres y débiles en el Sur. Sin embargo, todavía queda un largo camino por andar. El artículo *«Derechos territoriales, derechos lingüísticos y autonomía cultural para el pueblo saami finlandés»*, del Parlamento Saami de Finlandia, señala las carencias en las garantías para los derechos territoriales del pueblo saami. Y trata la importancia fundamental para el pueblo saami de disponer del derecho a practicar su propia lengua y desarrollar su propia cultura sobre la base de la autonomía cultural. Destaca también las crecientes actitudes hostiles en Finlandia contra los saamis.

Frente al 50 aniversario de la Declaración Universal de Derechos Humanos, hay que reconocer definitivamente que todavía hay un largo trecho por recorrer antes de que se logre el respeto real de los derechos humanos de los pueblos indígenas. Sin embargo, el importante trabajo en el Grupo de Trabajo sobre Poblaciones Indígenas de la ONU todavía continúa y se desarrolla y publicamos una serie de declaraciones de la 15ª Sesión de julio de este año.

Finalmente, publicamos reseñas de importantes publicaciones relativas a temas indígenas de Australia, Polinesia «Francesa» y la India. ❑

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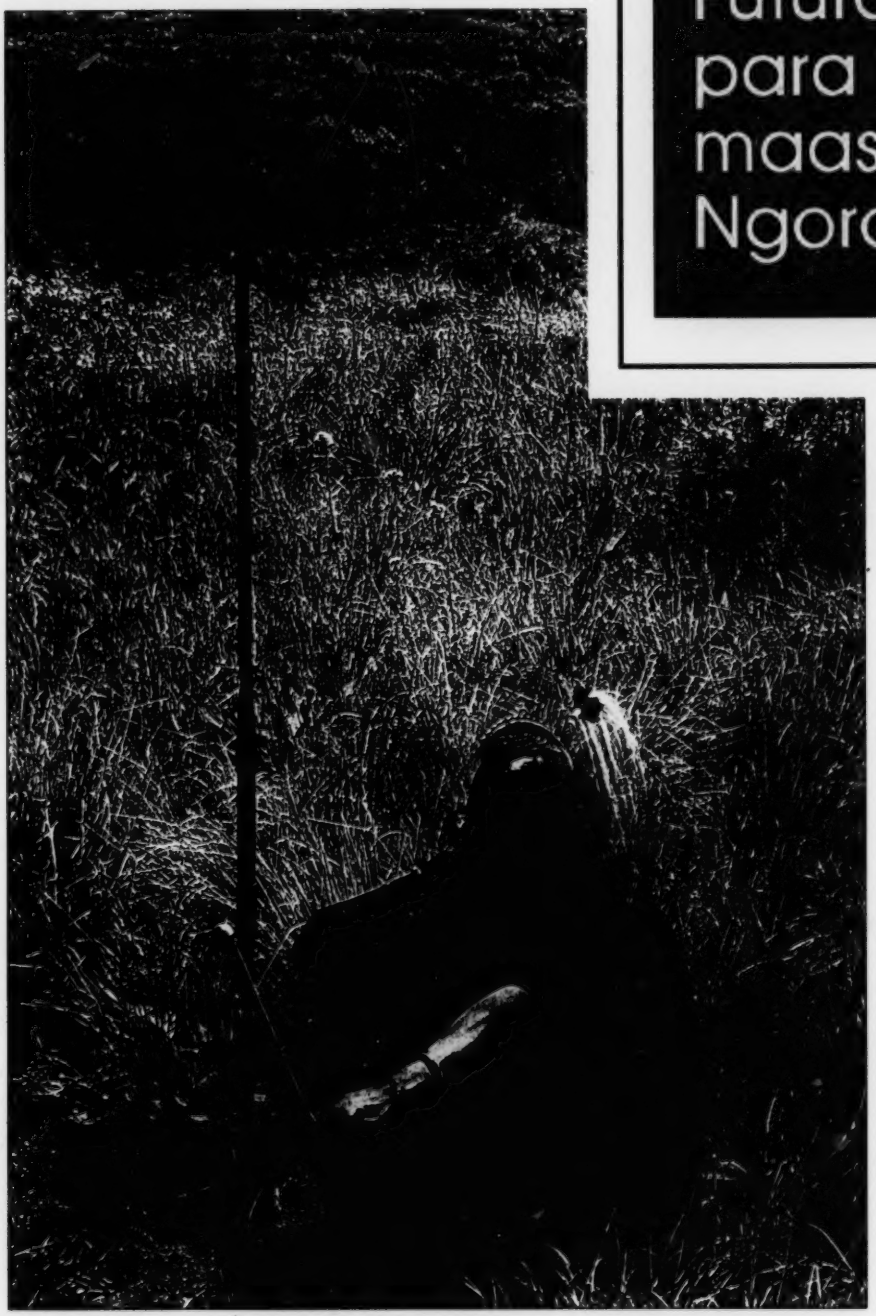
TANZANIA

Futuro incierto para los maasai de Ngorongoro

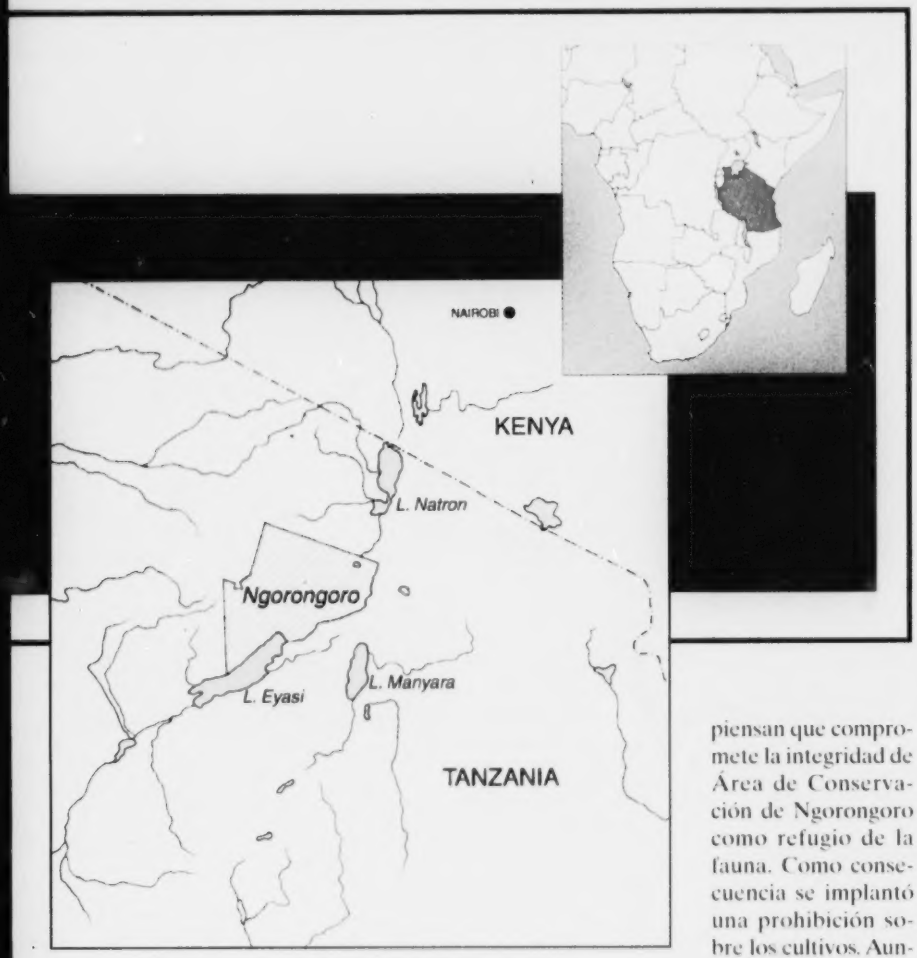
por Charles Lane



Guerrero maasai contemplando su futuro en Ngorongoro. Foto: Charles Lane

"Aquellos de nosotros que estamos preocupados por el bienestar de los maasai *debemos trabajar juntos para asegurar que los actuales problemas sean resueltos y que la gente de Ngorongoro tenga la oportunidad de controlar su propio desarrollo". (Hon. Mo. olle Timan Miembro Parlamentario del distrito de Ngorongoro)*

La Administración del Área de Conservación de Ngorongoro (NCA) en Tanzania ha probado ser problemática desde sus inicios. Nunca se logró satisfactoriamente un equilibrio justo entre las necesidades y derechos de los residentes indígenas y la preservación de la fauna. Esto ha sucedido a pesar de un requerimiento legislativo a la Autoridad del Área de Conservación de Ngorongoro (NCAA) para que administrara al Área de Conservación de Ngorongoro como un área de uso múltiple de la tierra con la obligación de salvaguardar y promover los intereses de los residentes maasai. El fracaso de Autoridad del Área de Conservación de Ngorongoro para cumplir con este mandato ha resultado en un antagonismo entre los residentes y los administradores. A esto se agrega el hecho de que las promesas de servicios de agua y ganado hechas como compensación por los desalojos de los maasai del Parque Nacional Serengeti en 1959 nunca han sido adecuadamente cumplidas hasta la fecha.



El resentimiento fue más tarde alimentado por el desalojo forzoso de residentes del "Crater", y su exclusión de otras áreas como la Reserva Forestal Septentrional que niega a los residentes un acceso vital a las pasturas. Se piensa que la prohibición de quemar el pasto ha conducido al crecimiento de especies no comestibles y un aumento de la garrapata. Un incremento de las poblaciones de animales salvajes ha resultado en una competencia por el forraje, y los gnúes tienen negado efectivamente el acceso a las llanuras de las tierras bajas debido al riesgo de la transmisión de la Fiebre Maligna de Catarrh - una enfermedad fatal para el ganado.

Estos factores se han combinado para menoscabar la producción ganadera de tal manera que la relación ganado/ser humano ha disminuido por debajo del nivel de subsistencia para el 37% de los residentes, y el 41% de los niños sufren de desnutrición. En un intento de lograr la seguridad alimenticia los residentes han hecho cultivos, algo que muchos conservacionistas piensan que compromete la integridad de Área de Conservación de Ngorongoro como refugio de la fauna. Como consecuencia se implantó una prohibición sobre los cultivos. Aunque esta prohibición fue levantada por el Primer Ministro en 1992, fue sólo por un período interino de tres años durante el cual la Autoridad del Área de Conservación de Ngorongoro estimularía la economía pastoral. Sin embargo, los avances en el desarrollo pastoral han sido magros, y no obstante, el Plan General de Manejo (GMP) propone que la prohibición sea reimpuesta.

A pesar del ingreso generado por el Área de Conservación de Ngorongoro como un lugar de Patrimonio Mundial y el destino tanzaniano más visitado por los turistas, los residentes han sido forzados a hacerse cargo de los costos de la conservación y reciben muy escasos beneficios. Tienen que contemplar en forma impotente como los agentes de turismo han obtenido ganancias aprovechándose de los recursos y las facilidades del Área de Conservación de Ngorongoro casi sin restricciones, y han visto su tierra adjudicada a hoteleros internacionales mientras que a ellos se les niegan los derechos de propiedad, libertad de movimiento, y se enfrentan a la perspectiva de que les retiren el derecho a hacer los cultivos necesarios para su supervivencia.

No es sorprendente que el Área de Conservación de Ngorongoro ha atraído la atención internacional y la de muchos otros intereses. Las organizaciones para la conservación de la fauna se han aliado con la Autoridad del Área de Conservación de Ngorongoro para lograr los objetivos de conservación de la fauna. Los investigadores científicos han encontrado esto como una buena fuente de investigación. Una serie de organizaciones internacionales de ayuda han tratado de apoyar al desarrollo pastoral con poco éxito. Hasta la fecha, aquellas que trabajan con las comunidades y aquellas interesadas en la fauna han colaborado muy raramente con un enfoque unificado, y existe todavía distancia entre ellas.

Lo más importante, es que los residentes, en conjunto, han sido casi completamente excluidos de los procesos de toma de decisión. Esto se destacó recientemente con el trazado del Plan General de Manejo (PGM) en el cual fueron consultados inadecuadamente y los intereses de la conservación de la fauna fueron privilegiados. Un desafío de los residentes al PGM ha conducido a un enfrentamiento entre aquellos que apoyaban a los residentes indígenas y aquellos que favorecían a la fauna. A pesar de sus protestas, el PGM ha sido "aprobado" y está siendo impuesto a una población desconforme - unestado de cosas sumamente insatisfactorio y que en última instancia amenaza la política de uso múltiple de la tierra, y quizá el futuro del Área de Conservación de Ngorongoro como área de conservación.

En una reciente reunión en Londres del grupo cooperador/simpatizante de la comunidad de Ngorongoro, se hizo una serie de dramáticas revelaciones. Los participantes fueron alertados sobre la actual crisis de alimentos que enfrenta el pueblo de Ngorongoro, que a menos que sea encarada, puede conducir al hambre y a la destrucción de la economía pastoral.

Los resultados de un estudio legal realizado por abogados eminentes en el Instituto de Investigación sobre Derechos a la Tierra y Recursos en Dar es Salaam indican que la Autoridad del Área de Conservación de Ngorongoro ha estado actuando con poderes demasiado amplios en contravención de los derechos del pueblo tal como son consagrados por la Constitución. El estudio sostiene que la participación local en el manejo del Área de Conservación de Ngorongoro era un derecho y no un simple

Ancianos maasai de Ngorongoro se reunen para discutir los problemas de vivir en un área protegida.
Foto: Charles Lane

mecanismo para el mejor manejo, y se reveló que una selecta representación de residentes en el Consejo Pastoral carecía de una genuina representación.

Se confirmó que la creación del Área de Conservación de Ngorongoro por medio de un estatuto no extinguía derechos consagrados (consuetudinarios) a la tierra. La protección que esto teóricamente acordó a los residentes quedó en una situación de riesgo con las noticias de que la Autoridad del Área de Conservación de Ngorongoro estaba solicitando la adquisición de un título reglamentario sobre la tierra del Área de Conservación de Ngorongoro. Así, de un plumazo, los residentes pueden quedarse sin tierras. El hecho de que esto estaba siendo intentado sin el conocimiento de los residentes es sintomático de la forma en que el Área de Conservación de Ngorongoro es actualmente manejada.

Se hicieron recomendaciones a los residentes para que resistieran la enajenación de sus tierras, y que trabajaran por la reforma de la legislación del Área de Conservación de Ngorongoro para garantizar el respeto de sus derechos y la plena participación en el manejo para el futuro. La siguiente declaración fue endosada por representantes del Área de Conservación de Ngorongoro y por una mayoría de los asistentes a la reunión:

1. Apoyamos el fortalecimiento de un Consejo Pastoral para que represente y permita la efectiva participación de los residentes del Área de Conservación de Ngorongoro en forma adecuada, en todos los asuntos referentes a la conservación de los recursos naturales y el desarrollo social y económico del Área de Conservación de Ngorongoro.

2. La reunión escuchó con suma preocupación la decisión del Consejo Directivo de la Autoridad del Área de Conservación de Ngorongoro de obtener un título registrado sobre la tierra del Área de Conservación de Ngorongoro.
   - Apoyamos los esfuerzos de los residentes del Área de Conservación de Ngorongoro para garantizar derechos efectivos a la tierra en el Área de Conservación de Ngorongoro.
   - Apoyamos a los residentes del Área de Conservación de Ngorongoro en sus esfuerzos para impedir que la Autoridad del Área de Conservación de Ngorongoro obtenga un título legal a la tierra del Área de Conservación de Ngorongoro.

3. Los participantes creen que la actual crisis alimenticia en el Área de Conservación de Ngorongoro tiene que ser inmediatamente encarada a través de una ayuda alimenticia de emergencia por parte de la Autoridad del Área de Conservación de Ngorongoro y la comunidad internacional. Por lo tanto, exhortamos a las Autoridades de Conservación

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a que utilicen fondos ya otorgados en el presupuesto para este propósito.
También hacemos un llamado a la Autoridad del Área de Conservación de Ngorongoro para que inicie un programa comprehensivo a largo plazo con el objetivo de reconstruir la economía pastoral sustentable en el Área de Conservación de Ngorongoro. Sin embargo, es evidente que la seguridad alimenticia a largo plazo y la autosuficiencia de los residentes del Área de Conservación de Ngorongoro no pueden ser logradas sin el respeto de sus derechos a continuar los cultivos de subsistencia a pequeña escala.

4. La reunión apoya cualquier esfuerzo para asegurar que todas las actividades de desarrollo y conservación en el Área de Conservación de Ngorongoro, apoyados por ONGs internacionales y cooperadores, sea implementado solamente con una consulta efectiva con los residentes del Área de Conservación de Ngorongoro.

Para que el futuro del Área de Conservación de Ngorongoro sea garantizado para el beneficio de los residentes indígenas, la conservación de la fauna, el turismo y la economía nacional entonces tendrán que hacerse cambios en la forma de administración del Área de Conservación de Ngorongoro. Fundamentalmente, entre éstos cambios está la integración de los residentes mediante estructuras administrativas formales. Consecuentemente, ellos quieren registrar una organización representativa que pueda negociar efectivamente sus intereses con la Autoridad del Área de Conservación de Ngorongoro. Sin esta posibilidad, sienten que se verán obligados a depender de la benevolencia de los elementos externos y permanecerán siendo vulnerables frente a las dificultades resultantes de las pasadas malversaciones tal como fueron tipificadas por los recientes sucesos.

Charles Lane *es abogado, agriculturalista y científico social, y ha realizado amplias investigaciones y trabajo de campo entre los pastores de África oriental. Está actualmente asesorando, como consultor independiente, a Supervivencia Internacional en un programa de tres años de apoyo a los derechos de los pastores en África oriental.* ❑

NOTICIAS DE ÚLTIMO MOMENTO

Firma de un Acuerdo de Paz en Chittagong Hill Tracts

El 2 de diciembre, la firma de un acuerdo de paz entre el Gobierno de Bangladesh y el Parbattya Chattagram Jan Sanghati Samity (PCJSS) puso fin a la guerra de varias décadas de duración que ocasionó tantas dificultades a los pueblos indígenas de Chittagong Hill Tracts. El acuerdo prevé una amnistía general para los Shantigahini (la fuerza armada resistente), ayuda para su reintegración económica y social y un cierto grado de autogestión. Se planifica un relevamiento de tierras para solucionar las disputas relativas a la tierra y para asegurar la propiedad de la misma. El muy disputado tema de la propiedad de la tierra representa definitivamente uno de los mayores desafíos para la implementación del acuerdo de paz. Aunque todos los campamentos temporarios de las Fuerzas Armadas serán disueltos, el ejército mantendrá sus principales campamentos en los tres distritos de CHT.

Por más información sobre el acuerdo de paz en CHT de acuerdo a la publicación en la prensa consultar la edición de internet del Daily Star, edición de 3 de diciembre, en: http://www.dailystarnews.com

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BOTSWANA

Tierra árida, sin árboles ni sombra en New !Xade.
Foto: Christian Erni

Continúa el reasentamiento de las comunidades khwe

por Christian Erni

Obviamente no impresionado por las protestas de las organizaciones locales e internacionales de derechos humanos, el gobierno de Botswana continúa con el reasentamiento de las comunidades *khwe* [1] de la Reserva de la Fauna del Kalahari Central (CKGR). Con 52.347 km², el área protegida más grande de Botswana -y una de las mayores de Africa- la Reserva de la Fauna del Kalahari Central fue establecida en 1961 por el gobierno del ex Protectorado Británico de Bechuanalandia. A los khwe, quienes todavía vivían en gran medida de la caza y la recolección, así como también a las comunidades negras *bakgalagadi*, que se han trasladado al área en el siglo XIX, les fue permitido continuar practicando su estilo de vida tradicional dentro de la reserva de la fauna. Aunque no explícitamente, el establecimiento de la reserva significaba de hecho una cierta protección contra la invasión de las tierras ancestrales de las comunidades del Kalahari Central, y les permitía continuar con su tradicional estilo de vida cazador-recolector.

Durante las últimas dos décadas, las pequeñas tribus khwe, sumamente dispersas, comenzaron a asentarse en siete aldeas permanentes de 40 a 500 habitantes. Este proceso de asentamiento fue fundamentalmente ocasionado por el Programa de Área Remota del gobierno, en el cual las comunidades eran provistas con agua, y fueron establecidas una escuela y una clínica en !Xade, que se convirtió en el poblado mayor, ya que los servicios del gobierno atrajeron a la gente de los tres grupos étnicos de la Reserva de la Fauna del Kalahari Central: los *g/wikhwe*, *g//anakhwe* y bakgalagadi.

Sin embargo, ya en 1986 el Ministerio de Comercio e Industria, después de haber realizado una evaluación de la situación en la Reserva de la Fauna del Kalahari Central, anunció que: «deberían identificarse sitios viables para el desarrollo económico y social fuera de la Reserva y los residentes de la Reserva deberían ser alentados -pero no forzados- a trasladarse a esos sitios».[2] Y desde finales de los años 80 el gobierno dejó que todos los programas de desarrollo para las comunidades de esta área fueran quedando en la nada.

El gobierno local ha probado ser también bastante lento, si no reacio, en el cumplimiento de su deber de mantener y reparar las bombas de agua. Mientras que el gobierno del distrito de Ghanzi, que tiene la responsabilidad administrativa de la Reserva de la Fauna del Kalahari Central, en 1990 todavía expresaba explícitamente su desacuerdo con los planes de reasentamiento y argumentaba en favor de los programas de desarrollo para las comunidades dentro de la reserva, ha cambiado de parecer en el interín y se ha puesto de lado del gobierno central.

En mayo de este año la mayoría de los residentes de !Xade, que cuenta con unas 500 personas, comprendiendo casi la mitad de los 1.000 a 1.200 habitantes de la Reserva de la Fauna del Kalahari Central, fueron reasentados por el gobierno del

Distrito de Ghanzi en un sitio ubicado a unos 60 kilómetros del límite occidental de la reserva. Nueva !Xade es un lugar desolado con casi ningún árbol que dé sombra y sin agua potable. Mientras que el agua de los pozos en el viejo !Xade es abundante y de una calidad excelente, el nuevo poblado será abastecido por una cañería de unos 50 kilómetros de largo, que porta un agua bastante salobre de otro pozo. Y contrariamente a las promesas, los habitantes no fueron provistos con ningún material de construcción, y tuvieron incluso que traer la madera de sus viejas chozas para reconstruirlas en el nuevo lugar.

La reubicación tuvo lugar poco antes del comienzo de la época más fría del año, cuando la temperatura puede bien caer bajo cero grado durante la noche. La gente tuvo que acampar al descubierto o trató de establecer rápidamente abrigos improvisados. Pero el dinero era abundante. Muchos khwe nunca habían tenido mucho dinero en el bolsillo antes. Así que las primeras semanas o meses fueron un tiempo de festejos - e incurrieron en un consumo excesivo de alcohol, ya que comerciantes foráneos que vendían todo tipo de bebidas se apresuraron a aparecer en la escena. Es previsible que el alcoholismo, como en todos los sitios de reasentamiento *bosquimanos* del país, pronto se convertirá en un problema importante. Especialmente a causa de que no es muy probable que los recursos accesibles en Nueva !Xade sean suficientes para permitir a la gente recrear su previa economía de subsistencia basada en la cría de ganado en pequeña escala y la caza y recolección.

La población de Nueva !Xade, que todavía está incrementando debido al continuo reasentamiento de la Reserva de la Fauna del Kalahari Central, es ya demasiado grande para hacer de la economía basada en la tierra una opción factible para todos sus residentes. Y la gente no ha recibido los necesarios permisos para cazar y recolectar comida silvestre, ni ha recibido nada del ganado prometido. La falta de oportunidades económicas, y en última instancia: la falta de derechos a la tierra son las razones más importantes de la desesperada situación en que la mayoría de los bosquimanos se encuentran atrapados en los sitios de reasentamientos de todo el país. Consiguientemente, la ociosidad forzada, la completa dependencia de los subsidios del gobierno y la falta de perspectivas para obtener algún grado de autodeterminación sobre su propio futuro y destino, crean un profundo sentido de impotencia, desesperanza, resignación y consecuentemente el escapismo al alcoholismo.

El proceso de reasentamiento

Existen informes y opiniones contradictorios sobre las circunstancias acerca de como ha tenido lugar el reasentamiento a Nueva !Xade. Según el gobierno, la gente aceptó ser reasentada. Y organizaciones locales independientes así como también una misión investigadora conducida por los Jefes de Misión de Gran Bretaña, EE.UU., Noruega, Suecia y la Unión Europea en Nueva !Xade en julio de este año, confirmaron que no ocurrió ninguna amenaza ni uso de fuerza física. Sin embargo, el equipo de la misión no puede haber logrado una visión profunda sobre como el proceso de reasentamiento ocurrió en realidad, ya que fue guiado por una gran delegación de funcionarios gubernamentales, incluyendo al Comisionado del Distrito de Ghanzi, dificultando las necesarias discusiones libres con la gente.

La mayoría de las personas entrevistadas por funcionarios de las ONG y periodistas en Nueva !Xade sienten que han sido forzados a trasladarse. Se hizo evidente que su resistencia inicial fue desgastada durante los años por una persistente política de la zanahoria y el garrote. Durante más de una década, los funcionarios locales han dicho constantemente a la gente que serían eventualmente reasentados. Pero nada sucedió hasta el año pasado, cuando se realizaron esfuerzos para convencer a cada familia particularmente sobre la necesidad - si no la inevitabilidad- y las ventajas de trasladarse fuera de la reserva. La gente es intimidada mucho más fácil cuando es visitada individualmente por los funcionarios, cuando le falta el apoyo de sus parientes, amigos y vecinos, y los alegatos, frecuentemente contradictorios y falsos, crean confusión e incluso divisiones en el seno de la comunidad.

Se les ofreció cantidades de dinero supuestamente variables como compensación, y el criterio aplicado nunca fue transparente. Se hicieron promesas de mejor infraestructura, oportunidades laborales y proyectos generadores de ingresos, mientras que al mismo tiempo se les dijo que los existentes servicios como el suministro de agua, la clínica, la cooperativa y la escuela no serían mantenidos dentro de la reserva incluso si decidían permanecer.

Después del reasentamiento de la comunidad de !Xade, varias organizaciones locales e internacionales llamaron a una moratoria del programa de reasentamiento hasta que una misión independiente haya establecido los hechos sobre las condiciones y métodos aplicados en el proceso, haya obtenido una clara imagen de las opiniones y aspiraciones de la población afectada,y haya evaluado posibles alternativas al reasentamiento.

El 15 y 16 de junio, la organización bosquimana local «Kgeikani Kweni» («Primer Pueblo del Kalahari») acordó un seminario del Comité de la Reserva de la Fauna del Kalahari Central (que consiste de representantes electos de la comunidad de la Reserva de la Fauna del Kalahari Central). El propósito era establecer un Equipo Negociador que buscara negociaciones con el gobierno sobre la transferencia de los derechos de propiedad sobre las tierras ancestrales de la Reserva de la Fauna del Kalahari Central a los residentes que viven allí y a sus sucesores. El Equipo Negociador formado consiste de dos representantes de cada uno de los siete poblados de la Reserva de la Fauna del Kalahari Central

New !Xade: la mayoría del pueblo khwe se ve forzado a mantenerse ocioso ya que existen pocas oportunidades de trabajo. Foto: Christian Erni

que son miembros del ya establecido Comité de la Reserva de la Fauna del Kalahari Central, un delegado de cada una de las tres organizaciones bosquimanas de Botswana (Primer Pueblo del Kalahari, el Fondo de Desarrollo Kuru y el Grupo de Trabajo sobre Minorías Indígenas en Africa del Sur, Botswana), y una serie de miembros no-votantes ya como asesores individuales o como representantes de ONGs no-indígenas.

Se decidió enviar una carta al Ministerio de Gobierno Local, Tierras y Vivienda, solicitando una reunión previamente prometida a los residentes de la Reserva de la Fauna del Kalahari Central tanto por el Presidente como por el Ministro, para discutir los derechos a la tierra de la Reserva de la Fauna de los residentes de la Reserva de la Fauna del Kalahari Central. La reunión fue considerada como la primera de una serie que conduciría eventualmente al arreglo de la reivindicación de tierras. El Equipo Negociador expresaba sus esperanzas de que se lograra el siguiente acuerdo en la primera reunión:

1. Que se declare una moratoria sobre todos los traslados de la Reserva de la Fauna del Kalahari Central hasta que la reivindicación de tierras sea resuelta;
2. Los servicios existentes para las aldeas serán mantenidos hasta que se llegue a un acuerdo, o la cuestión sea resuelta de otra manera;
3. Los residentes aldeanos de la Reserva de la Fauna del Kalahari Central tendrán el derecho de acceso a oportunidades de desarrollo similares a aquellos gozadas por las comunidades *san* que viven fuera de la Reserva, teniendo en cuenta el propósito para el cual la Reserva de la Fauna del Kalahari Central fue inicialmente proclamada, habiendo pendiente una resolución sobre la reivindicación de tierras;
4. El Equipo Negociador y en particular el Comité de la Reserva de la Fauna del Kalahari Central serán considerados por el gobierno como los auténticos representantes de los residentes san de la Reserva de la Fauna del Kalahari Central;
5. El Gobierno no se comunicará directamente con los residentes individuales de la Reserva de la Fauna del Kalahari Central, sino que canalizará todas las comunicaciones a través del FPK, y los asesores del equipo;
6. El Gobierno revelará toda la información (y suministrará copias de la documentación cuando la misma exista) relevante para su política de traslados, y para aquellos residentes que han sido trasladados desde diciembre de 1996;
7. Se acordará un cronograma por el cual las partes se esforzarán para resolver la reivindicación de tierras.[1]

La carta fue enviada al Ministro Patrick Balopi a comienzos de julio, pero el Equipo Negociador nunca recibió una respuesta de él. Mientras tanto, los empleados del concejo del distrito de Ghanzi y Kweneng estaban atareados tratando de convencer a los residentes de los restantes seis poblados para que se reasentaran, persistiendo en su estrategia de negociar con cada familia en forma particular.

A mediados de agosto, el FPK fue informado que algunos de los residentes habían firmado el acuerdo de reasentamiento. El equipo que visitó a las comunidades de Molapo, Metsiamanong, Mothomelo, Gugama y Kikao descubrió que la información era cierta. Sinembargo, lo que preocupó más a los miembros del equipo fueron los informes de la gente sobre la forma como fueron convencidos para acordar el reasentamiento. Como en !Xade, una serie de personas, y especialmente mucho de los jóvenes, dieron su acuerdo en forma voluntaria, principalmente porque fueron atraídos por las promesas de mejor acceso a trabajos. El dinero ofrecido y las promesas de mejores servicios gubernamentales han contribuido mucho, sin lugar a dudas, al debilitamiento de la resistencia de muchos otros. Pero la mayoría también sentía que simplemente no tenía ninguna otra opción. El argumento crucial siempre ha sido el agua. Invariablemente, los empleados del gobierno subrayaron que el suministro de agua o el mantenimiento de los pozos de agua serían eventualmente suspendidos en los poblados de la reserva. Los empleados del gobierno ni siquiera se abstuvieron de usar falsos alegatos - como el de que los líderes más influyentes ya habían otorgado su acuerdo o que «el ejército se ocuparía de ellos» si continuaban resistiéndose.

Los métodos utilizados por los funcionarios gubernamentales en el lugar se contradicen descaradamente con la política oficial de «alentar pero no forzar» a la gente a reasentarse, y a la repetida afirmación de que todos los servicios públicos serán mantenidos también dentro de la reserva. Si los funcionarios de más jerarquía del concejo del distrito están conscientes del comportamiento de su personal de campo sigue siendo ur pregunta abierta. Sin embargo, aparentemente nunca han sido adecuadamente investigados las críticas anteriores e informes de casos de uso de amenazas, ni han conducido a acciones correctivas. Y el gobierno sigue manteniendo, contra toda evidencia, que la gente se ha trasladado voluntariamente.

Los motivos del gobierno

Las razones oficiales dadas por el gobierno para el reasentamiento de las comunidades de la Reserva de la Fauna del Kalahari Central son, mejores condiciones para suministrar servicios sociales fuera de la reserva y la conservación de la fauna. El mantenimiento y la mejora de los servicios sociales en los remotos poblados de la Reserva de la Fauna del Kalahari Central es ciertamente una tarea difícil. Y aquellas comunidades que tienen que enviar a sus niños a escuelas de internado incluso para el nivel de educación elemental no están para nada contentos con esa solución. Sin embargo, ya han sido desarrolladas alternativas para un sistema escolar unificado y centralizado en otras partes en relación con pueblos indígenas. Contrariamente a todas las promesas y contradiciendo su propio argumento, los servicios ofrecidos en Nueva !Xade son muy pobres, incluso peores que los de la vieja !Xade. Las clases son todavía impartidas en tiendas de campaña, el agua tiene todavía que ser traída en camiones (de la vieja !Xade, tiene que ser destacado), y no ha sido implementado hasta ahora ningún programa socioeconómico generador de empleo ni se han suministrado otras oportunidades para generar ingresos. Y es difícil imaginar que el gobierno sea algún día capaz de suministrar alternativas económicas viables. Nueva !Xade no es considerablemente menos remota que la vieja !Xade, y el acceso a la educación, al trabajo, el mercado y los servicios gubernamentales definitivamente no ha mejorado.

El segundo argumento, la conservación de la fauna, es incluso más dudoso, ya que contradice la nueva política de conservación y turismo tan aclamada internacionalmente, que enfatiza la participación de las comunidades locales. En otras partes del país el gobierno otorgó derecho al manejo sobre parte de reservas de la fauna y áreas de manejo de la fauna a comunidades locales, y promovió activamente y apoyó proyectos de ecoturismo manejados por las comunidades. Y el Departamento de la Fauna y Parques Nacionales ha apoyado tales planes para la Reserva de la Fauna del Kalahari Central - hasta hace poco, cuando fue silenciado por las autoridades superiores.

No es de extrañarse que existan muchas especulaciones sobre las «verdaderas razones» para la determinación del gobierno de sacar a la gente fuera de la Reserva de la Fauna del Kalahari Central. Fueron mencionados los intereses del fuerte «lobby» ganadero, el cual quisiera ver a la parte meridional de la reserva, donde viven las comunidades khwe, abierta para su uso como pasturas. Y se ha sabido durante ya bastante tiempo que la Reserva de la Fauna del Kalahari Central contiene depósitos de diamantes. Pero sólo recientemente se ha hecho público que se han identificado realmente dos depósitos promisorios. Los estudios de factibilidad están siendo realizados por De Beers (que ya opera dos grandes minas en Botswana) y la compañía minera canadiense Falconbridge en Gope, cerca del límite oriental de la reserva. Y a Anglo-American le ha sido otorgada una concesión para exploración precisamente este año, cerca de !Xade, al oeste de la reserva, donde se descubrió un depósito promisorio en Xaxa.

Según un informe del periódico sudafricano Sunday Independent, del 31 de agosto, las operaciones comenzaron allí poco después de que la gente de !Xade fue trasladada. No obstante, tanto De Beers como Anglo-American niegan saber nada sobre los planes de reasentamiento del gobierno. Y E. Molale, Secretario Permanente del Ministerio de Gobierno Local, Tierras y Vivienda, respondió al mismo artículo sosteniendo que:

> *«No habrá minas en la Reserva de la Fauna del Kalahari Central. Uds. pueden verificarlo por sí mismos. La prospección se realiza en todas partes en Botswana y, por sobre todas las cosas, tiene como intención ayudar a comprender la formación geológica del país. No existe ningún tipo de maquinarias de minería y perforación en !Xade».*[4]

Sin embargo, muchos observadores no pueden desechar fácilmente la sospecha de que la inquebrantable determinación del gobierno de impulsar el programa de reasentamiento en la Reserva de la Fauna del Kalahari Central está motivada en última instancia por el objetivo de establecer un *fait accompli* antes que las comunidades khwe y bakgalagadi se hayan organizado mejor, estén más fortalecidos en la defensa de sus derechos territoriales y traten de impedir las actividades comerciales y la explotación de recursos por parte de elementos foráneos en su tierra, o al menos exijan compensación.

Los más recientes acontecimientos en la Reserva de la Fauna del Kalahari Central ponen al gobierno un poco más cerca de este -explícito o implícito- objetivo. En noviembre, la mayoría de la población de Mothomelo y Gope ya había sido reasentada, algunos a Kaudwane en el Distrito de Kweneng, y algunos en Nueva !Xade. Los pocos que se niegan a ser reasentados han decidido trasladarse permanentemente a la vecina Metsiamanong. Sin embargo, sólo con unas pocas excepciones los residentes de Gugama, Kikao, Metsiamanong y Mothomelo están determinados a permanecer. Así que el último capítulo de la lucha por la Reserva de la Fauna del Kalahari Central todavía no ha sido escrito. Y a aquellos que se queden pueden pronto unirse otra vez los residentes de Nueva !Xade que ya están profundamente decepcionados por las expectativas no satisfechas y deprimidos por la desolada situación del poblado. Están decididos a exigir al menos el mantenimiento de una promesa hecha por el gobierno: que si no les gusta la vida en el sitio de reasentamiento, tienen el derecho de retornar. Margareth Nasha, la nueva Ministra de Gobierno Local, Tierras y Vivienda se reunió con el Equipo Negociador el 28 de noviembre en Nueva !Xade. Es sumamente apreciado que, contrariamente a su predecesor, ella parece dispuesta a entrar en negociaciones directas con el Equipo Negociador, en representación de las comunidades de la Reserva de la Fauna del Kalahari Central. Sin embargo, durante esta primera reunión, ella evitó responder al tema planteado relativo a aquellas personas que deseaban retornar. Se espera que en futuras reuniones y negociaciones el gobierno mantenga sus promesas y los principios democráticos que el mismo alega son los fundamentos del estado de Botswana.

Notas

1. Khwe es actualmente utilizado por los bosquimanos que viven en y en torno de la Reserva de la Fauna del Kalahari Central como un término de autodesignación. Sin embargo, noes aplicable a todos los grupos bosquimanos de Botswana.
2. C.f. Hitchcock, Robert, 1996. Decisión del gobierno de reasentar a los habitantes de la Reserva de la Fauna del Kalahari Central. Asuntos Indígenas No.3, 1996, p. 44. El artículo ofrece un relato más detallado del establecimiento de la Reserva de la Fauna del Kalahari Central, las diferentes políticas gubernamentales relativas a la tierra y a los derechos a la caza y de los acontecimientos en conexión con los planes de reasentamiento hasta mediados de 1996.
3. FPK 1997. Informe interno del seminario del Comité de la Reserva de la Fauna del Kalahari Central, junio 15-16, 1997.
4. Sunday Independent 7/9/97.

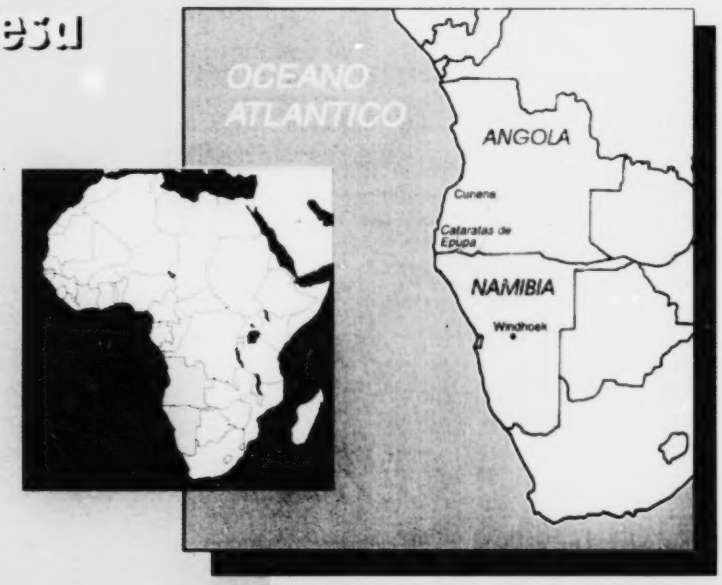
Christian Erni *es un antropólogo que ha estado conectado con IWGIA durante muchos años y que actualmente trabaja en el secretariado de IWGIA.* ❑

NAMIBIA

La lucha del pueblo himba contra la planeada construcción de una represa

Los *himbas* se sienten ignorados y marginados por su gobierno y se están marginando cada vez más en los actuales procesos políticos.

Los himbas viven en el noroeste de Namibia y se trasladan sobre el río fronterizo Cunene del lado angoleño. La zona es un paisaje desértico seco, árido y montañoso, en el cual la pluviosidad es imprevisible. El río Cunene, de 1.050 km de longitud, es parte de la frontera con Angola y es el único río de la región que tiene agua todo el año. Además de éste existe sólo otro río permanente en toda Namibia. El equilibrio ecológico es sumamente delicado y el ecosistema no soporta una presión muy grande. El ser humano, la vegetación y los animales han debido adaptarse a esta situación extrema. Aquí existen una variedad de especies animales y vegetales que corren peligro de extinción.



En el río Cunene, en la cascada de Epupa, el gobierno, SWAPO (Organización Popular de Africa Suroccidental) planea construir una represa hidroeléctrica. Hace ya décadas que existen planes para construir una represa en la cascada de Epupa, pero recién ahora, a partir de que Namibia se independizó, los planes relativos a la represa se han hecho más tangibles. Después de la independencia de Sudáfrica en 1990, el gobierno ha comenzado a modernizar, a «desarrollar» el país, mediante la promoción del crecimiento económico. Tiene intenciones de no ser dependiente y ser autosuficiente, especialmente en relación al ex poder colonial. Los planes de desarrollo exigen energía, electricidad, entre otras cosas se comenzará la explotación de una mina de cobre en 1999. Una represa en la cascada de Epupa es considerada como una solución para la creciente necesidad energética, en relación con la actual importación de carbón del ex poder colonial, Sudáfrica.

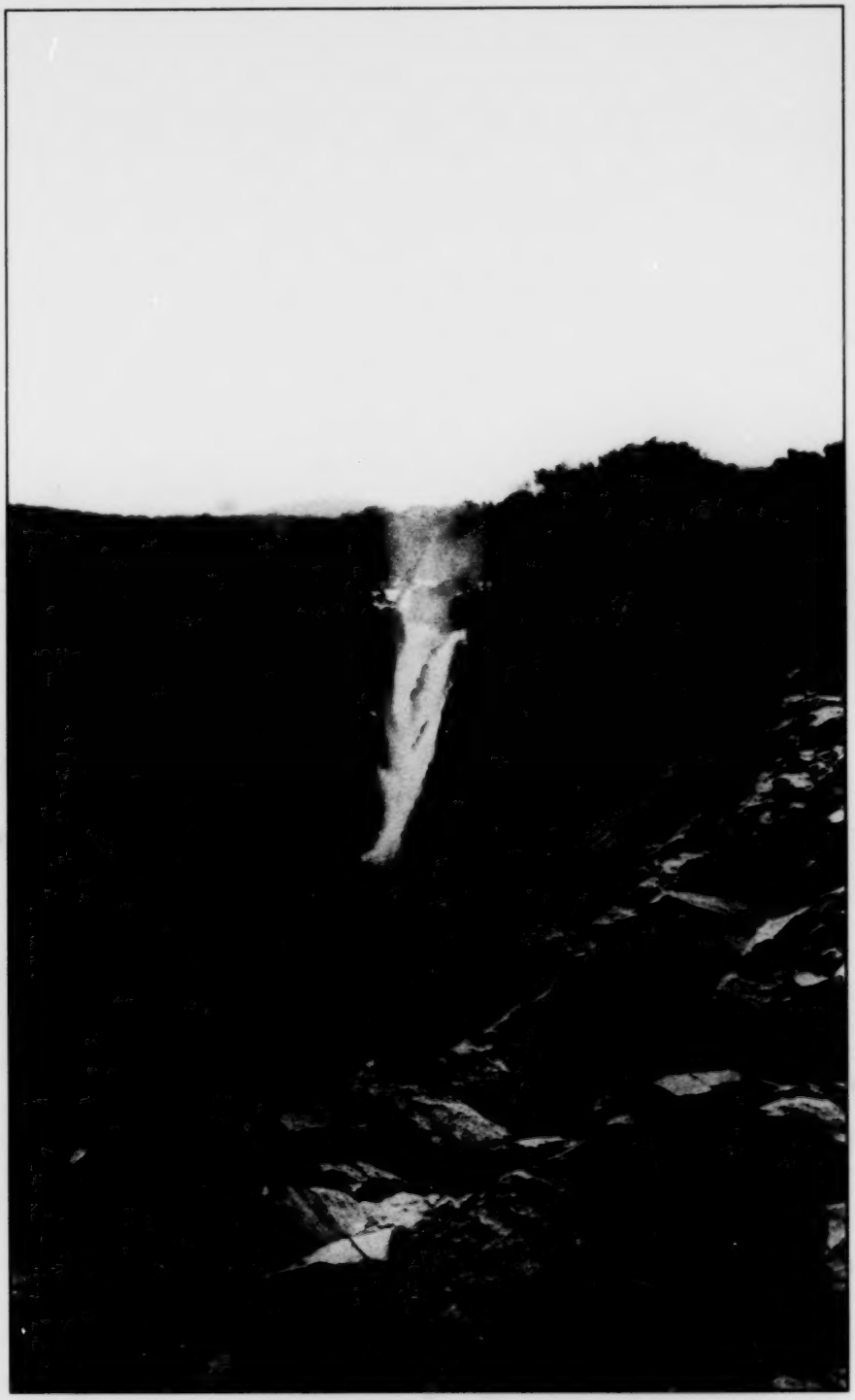
En el lado namibio del río, en la región de Cunene, en unos 50.000 kilómetros cuadrados, viven unas 30.000 personas, de los cuales los himbas son uno de los pueblos de la zona que directa o indirectamente se verán influenciados por la construcción de la represa. Los himbas son un pueblo pastor nómada que durante siglos se han adaptado a las duras condiciones que rigen en la región. Los movimientos de los himbas han sido citados como un excelente ejemplo de un sistema rotacional de pasturas apropiado para una región árida montañosa.

por Terese Sveijer

Los himbas son económicamente independientes y obtienen su subsistencia principalmente de la cría del ganado. Su estilo de vida exige que existan posibilidades de trasladarse en grandes zonas

para conseguir pastura y agua para el ganado en el seco paisaje. Los himbas no son económicamente débiles, se los considera uno de los pueblos *bantú* más ricos del Africa, considerando el valor de su ganado a valor de mercado. Gozan de buena salud, y todavía no se ha informado de ningún caso de SIDA.

Los himbas han vivido durante largo tiempo relativamente aislados. Las explicaciones son varias: el extremo clima desértico, el sistema del «apartheid», la guerra de liberación entre SWAPO y Sudáfrica y la guerra de Angola. Antes, la zona no se consideraba como una región con potencial de desarrollo. Esta separación de otros grupos ha resultado en que los himbas pudieran conservar sus tradiciones y su cultura sin mayor influencia de otras culturas y de la modernización del mundo a su entorno. Los himbas son hoy económicamente independientes y están muy poco involucrados en la economía de mercado. Los himbas, como otros pueblos de la región, están políticamente marginados, han sido ubicados fuera del proceso político en lo que respecta a los planes de desarrollo para la región. La población local goza de muy poca educación escolar, la mayoría no saben ni leer ni escribir, y hay muy pocos que hablan inglés, el idioma nacional.



Parte de la cascada de Epupa. Foto: Terese Sveijer

El estudio de factibilidad

Desde 1995 trabaja una treintena de consultores en la región de Cunene en un estudio de factibilidad para la eventual construcción de una represa en la cascada de Epupa. Es un consorcio entre Namibia, Angola, una empresa noruega y una sueca, Norconsult y SwedPower respectivamente. El proyecto es financiado por SIDA, la Autoridad Sueca para el Desarrollo Internacional, y NORAD, la Agencia Noruega para la Cooperación para el Desarrollo, y cada una ha pagado más de $2,5 millones.

El proyecto ilustrará los aspectos técnicos, económicos, ecológicos y sociales de la construcción de una represa hidroeléctrica así como las fuentes de energía alternativas. Durante la marcha de los estudios, los consultores han elaborado tres alternativas de represa. Los consultores

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recomiendan la alternativa de represa Baynes, ubicada 4 millas más abajo que la cascada de Epupa, con una caída de 200 m. (lo cual la convertirá en la represa más alta de Africa) y una superficie de embalse de 50 kilómetros cuadrados. La alternativa Baynes se considera como la más ecológica y socialmente sustentable. El gobierno prefiere la alternativa de una represa más grande, con una caída de 160m., 380 kilómetros cuadrados de superficie de embalse y una mayor capacidad de almacenamiento, un embalse de 7.909 Mm^3. La alternativa implica que la cascada de Epupa quedará completamente bajo agua lo cual implica un mayor perjuicio para la zona. Se calcula que ambas alternativas de represa producirán 300MW de electricidad. Hoy se estima el consumo eléctrico de Namibia en cerca de 280 MW, los cálculos a partir de la tasa de crecimiento actual estiman una necesidad de energía eléctrica de 430 MW para dentro de 10 años.

«Independientemente de donde se construya la represa, nos va a influir a nosotros, las consecuencias para nosotros son las mismas si la represa se trasladada más abajo», respondió Paulus Tjavara, rey de los himbas de Namibia, en su visita a Estocolmo en junio de 1997, a la pregunta de cómo veían los himbas a la alternativa Baynes.

El resultado final del estudio se ha postergado otra vez y se dice que estará pronto en octubre de 1997.

El estudio de factibilidad ya ha sido criticado tanto en Suecia como a nivel internacional. Los críticos sostienen, entre otras cosas, que:

* el gobierno de namibia ya ha decidido que se construirá una represa, el dinero de la cooperación debería utilizarse para otra cosa en vez de para un estudio de factibilidad
* las represas hidroeléctricas gigantes no son ninguna fuente de energía sustentable
* el estudio no ha investigado seriamente fuentes de energía alternativas
* no se han realizado suficientes estudios del lado angoleño
* no hay ninguna comunicación ni consulta que funcione entre el gobierno, los consultores y la población local. Ésta se siente ignorada por su gobierno y no contemplada en lo que se refiere a lo que sucede en la región
* mediante la financiación del estudio de factibilidad se legitima el polémico pre-estudio de factibilidad
* SIDA y NORAD legitiman la construcción de una represa mediante la financiación del estudio de factibilidad
* ¿se debe usar el dinero de las cooperadoras para un proyecto que marginará a grupos ya dejados de lado?

Como están las cosas ahora no se sabe sí y cuándo todo el estudio estará completo. La antropóloga social Margaret Jacobsohn, que estudia los aspectos socioculturales, es decir las consecuencias para los himbas, valora que es imposible proseguir el estudio en el clima reinante. Desde marzo, cuando el gobierno hizo pública una declaración de que se construirá una represa independientemente del resultado de los estudios, ella ha dejado de trabajar en su parte del estudio. La parte del estudio de Jacobsohn, la parte polémica más destacada, es imprescindible para obtener un estudio de factibilidad completo.

Las consecuencias para los himbas

Los himbas no son un grupo homogéneo, unido. Existen aquellos que consideran que una represa es positiva para la región. Principalmente la generación más joven nombra las oportunidades de trabajo, los comerciantes ven una posibilidad para el aumento de su comercio. Pero la mayoría de los himbas están completamente en contra de la construcción de una represa, consideran que no tienen ninguna necesidad de electricidad, quieren vivir como lo hacen ahora, de la cría del ganado. Los planes del gobierno de construcción de una represa son para muchas personas de la región totalmente desconocidos. Las consecuencias reales de una represa nadie las conoce, lo que por el contrario si se sabe es que los seres humanos de la región son sumamente dependientes del río. No es la primera vez que el pueblo himba se ve obligado a trasladarse, este grupo de seres humanos ha sido víctima anteriormente de un traslado involuntario. «Hemos aprendido la lección de la represa de Ruacana [Ruacana está ubicada al noroeste de Epupa] cuando murieron muchas personas, lo mismo va a suceder si se construye una represa en Epupa», dijo Paulus Tjavara, rey de los himbas de Namibia, durante su visita a Estocolmo en junio de 1997.

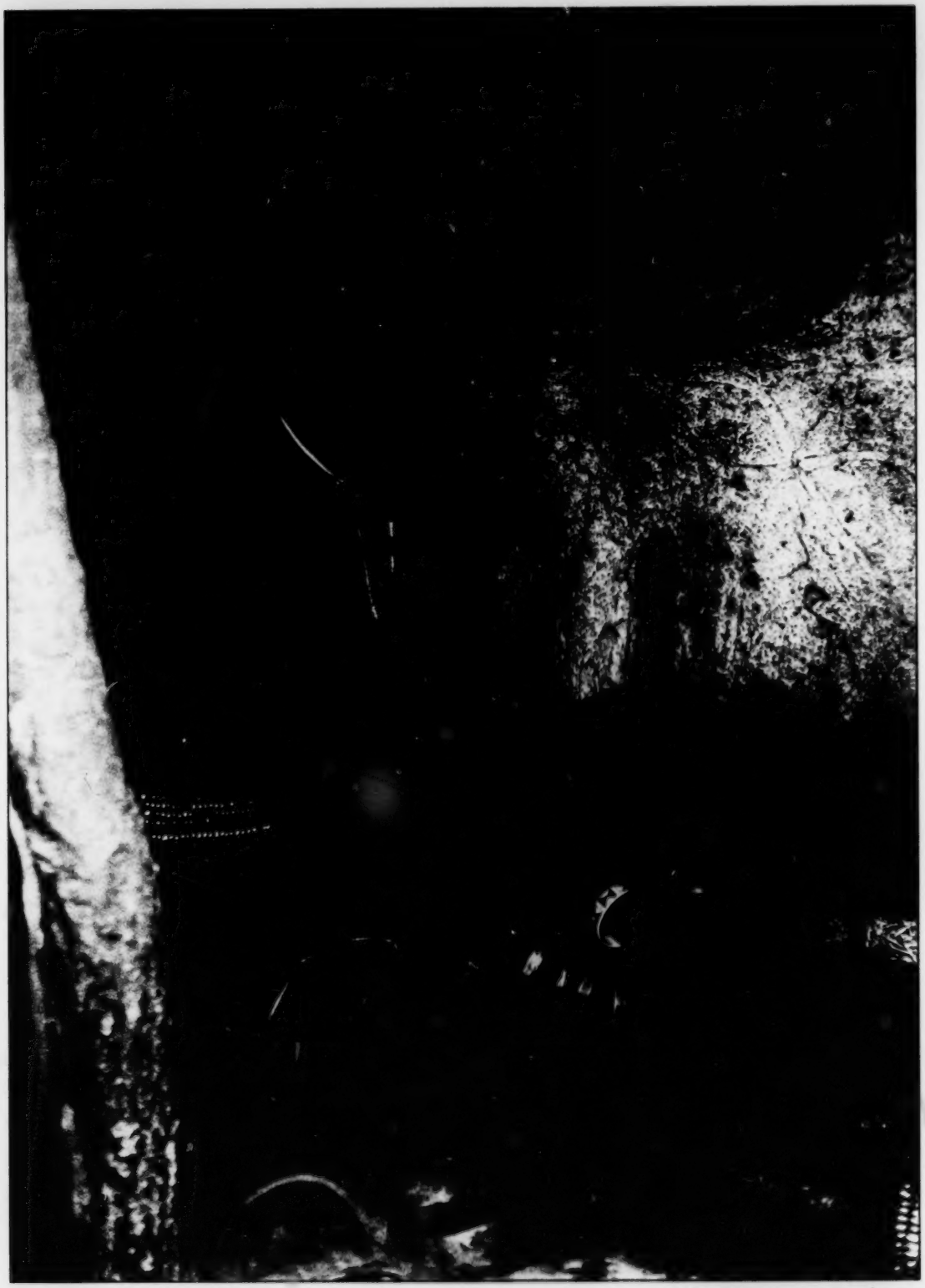
Las consecuencias de la construcción de represas han demostrado ser históricamente poco saludables para las poblaciones locales. El río Cunene es de una importancia fundamental para el estilo de vida del pueblo. Una represa inundaría lugares de culto importantes, como cementerios donde se dirigen a consultar a sus ancestros, huertas y cultivos que durante el período de sequía tienen una importancia muy grande quedarán bajo agua, el estilo tradicional de vida exige acceso a la tierra y al río, los impactos negativos desde la perspectiva himba son muchísimos. Una represa implica incluso otras influencias, como la de los trabajadores de la construcción, las viviendas, los caminos, una ciudad, es decir, una comercialización que hoy no existe y que es algo completamente ajeno a la región.

«Es imposible para nosotros entregar la tierra, aquí es donde tenemos las tumbas de nuestros antepasados, nuestros cementerios sagrados, las mejores tierras de pastura, es aquí donde pacemos a nuestro ganado, donde tenemos nuestros cultivos, huertas, recolectamos los cocos de las palmeras. La zona es imprescindible durante el período de sequía para que podamos sobrevivir. Si se construye una represa todo quedará bajo agua. No permitiremos que se construya una represa en nuestras tierras», expresó el jefe Hikumene Kapika en una reunión pública sobre la planeada represa en Windhoek, el 31 de octubre de 1996. El pueblo himba no había sido convocado para esta reunión sino que se enteró de casualidad.

Una represa implicaría consecuencias destructivas para la actual estructura cultural, económica y social de los himbas. Ningún pueblo vive en la globalización del día de hoy completamente aislado, las culturas están en continuo cambio y siempre lo han estado, pero los himbas exigen el derecho a participar en los procesos que suceden, tener posibilidad de participar y determinar su desarrollo y su futuro y no ser considerados como primitivos supervivientes de una cultura exótica.

Concepciones de desarrollo contradictorias

El pueblo himba constituye una minoría que se pone en contra del interés de la nación. En la constitución de Namibia no existe ninguna disposición escrita que de-



Mujer himba pulverizando ocre para pintarse el cuerpo. Foto: Terese Sveijer

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fienda directamente los derechos de las minorías étnicas. El pueblo himba, como las otras minorías de la región, no ha sido consultado en la cuestión referente a los planes de desarrollo para la zona. La mayoría de las reuniones públicas sobre la construcción de la represa se han celebrado en la capital, Windhoek, donde la población en general nunca ha estado o lo ha hecho muy rara vez. Los himbas no han sido informados sobre los planes de modernización del gobierno. Es recién ahora que los himbas y los otros pueblos han tomado consciencia de los planes de construcción de una represa, principalmente a través de ONGs y agentes internacionales.

El gobierno acusa a los himbas y a las organizaciones internacionales que están en contra de una represa de ser enemigos del desarrollo. Ni los himbas ni las organizaciones internacionales están en contra del «desarrollo», los cambios, pero priorizan otros factores que la construcción de una represa por parte del gobierno. Existen alternativas. La modernización del país no es lo principal para los himbas, para ellos es el ganado, la familia y el clan lo más importante, no que el país se «desarrolle».

La visión del gobierno del desarrollo es muchas veces amedrentante y unilateral; ahora todos serán namibianos, portarán ropas respetables, no sus vestimentas tradicionales; los himbas son considerados sucios, primitivos con el torso desnudo, no desarrollados. «Los himbas deben superarse ellos mismos, y no limitarse a seguir siendo una atracción turística». Sam Nujuma (semanario Mail & Guardian 03/02/95). «Los himbas no quieren permanecer siendo bavianes. También quieren televisiones y luz en sus hogares». Polla Brand, presidente de la empresa de electricidad de Namibia, Swawek, (semanario Mail & Guardian 03/02/95).

Resistencia

El sentimiento de impotencia de los himbas que están en contra de una represa culminó cuando el viceministro de energía y minas de Namibia, Jesaya Nyamin, hizo una declaración pública en marzo de 1997, diciendo que ya está decidida la construcción de la represa, el estudio de factibilidad funcionará nada más que como base para decidir qué tipo de alternativa de represa será construida. La oposición llamó a una reunión y se constituyó una comisión, el Comité Epupa/Kaoko (EKC) que nombró incluso una delegación que se dirigió a Europa para solicitar ayuda y apoyo para detener la construcción de la represa. Europa fue un objetivo claro ya que el gobierno dijo que de allí provendría la financiación para la construcción de la represa.

«Lo único que recibimos de nuestro gobierno fueron humillaciones; que los himbas tienen el pecho caído y son tontos. Por eso decidí dirigirme a otras personas y solicitar ayuda». «La construcción de una represa en Epupa va a matar a gente de la región, por lo tanto solicitamos su ayuda para impedir la construcción de la represa, por eso estamos aquí». Jefe Tjavara.

«Nos sentimos oprimidos por el gobierno de Namibia. Vinimos a Europa para buscar ayuda de otros seres humanos». Jefe Hikumene Kapika.

La delegación estaba compuesta de Hikumene Kapika, jefe de la región de Epupa y Paulus Tjavara, rey de los himbas de Namibia, además de una traductora. Los himbas consideran que es de gran importancia que el mundo tenga consciencia de su situación y de las consecuencias de la construcción de una represa. Durante la estadía de tres semanas en Europa, visitaron Alemania, Gran Bretaña, Bélgica, Noruega y Suecia, lo cual se hizo posible gracias a una cooperación entre varias organizaciones internacionales que trabajan por los derechos humanos y el medio ambiente.

Se consideró a Suecia como una visita importante ya que SIDA paga el estudio, la empresa sueca SwedPower es miembro del consorcio que realiza el estudio y hay muchos consultores suecos empleados. La visita a Suecia fue organizada por el grupo nacional sueco de IWGIA, IWGIA-Lund. El objetivo de la visita era que los himbas tuvieran la posibilidad de hablar por sí mismos y presentaran sus opiniones, que tuvieran influencia en los procesos que ahora amenazan su situación y su futuro, así como la posibilidad de formar una opinión en un estadio temprano, antes de que se tomen decisiones reales. Al mismo tiempo, la delegación obtuvo un mayor conocimiento y comprensión en torno a la nueva situación en la que se encuentran, una situación que no han elegido y a la que ahora se oponen. La visita a Suecia fue destacada en la radio, la TV y los periódicos; la prensa namibia escribió diariamente sobre la visita de la delegación en Europa.

La delegación se entrevistó en Suecia con, entre otros, SwedPower (la empresa de ingeniería sueca que participa en el consorcio que realiza el estudio de la represa), SIDA, ministros, expertos en traslados, periodistas y también varias organizaciones que trabajan por el medio ambiente y los derechos humanos. SwedPower sostiene que no construyen una represa sino que realizan un estudio de los efectos de una construcción de una represa. SIDA financia sólo el estudio, una base para el gobierno de Namibia que se encuentra ante la decisión de si se construirá una represa o no. SIDA y SwedPower por su parte no pueden excluirse de la responsabilidad sobre el funcionamiento del proceso de estudio. Los consultores no carecen tampoco de responsabilidad sobre cómo funciona la consulta con respecto a la población local, el pueblo himba.

Se prometió a los himbas acceso a toda la información y que sus puntos de vista figurarían en el informe final. SIDA, el Banco Mundial y la Unión Europea han dicho no a la financiación de la construción de una represa.

Qué va a suceder luego...

La delegación quedó muy satisfecha con todo lo sucedido y consideró la visita a Europa como un éxito, en la cual pudieron expresar su situación y buscar apoyo. Sienten que la visita les enseñó mucho y los fortaleció. Volvieron con fuerzas renovadas para impedir la construcción de la represa, van a exigir una reunión con su gobierno para presentar sus puntos de vista.

Se sienten más seguros después de la visita a Europa, la policía y el gobierno de Namibia saben que Europa está observando lo que sucede con los himbas. Pero cerca de un mes después de la vuelta los himbas fueron víctimas de un atropello policial. La policía de Namibia y la policía de seguridad, armados con armas automáticas, irrumpieron en una consulta privada entre unos 70 himbas y sus abogados, el Servicio de Asistencia Legal. El hecho se repitió durante dos días consecutivos. La policía fundamentó su acción en la proclama AG23 y prohibió a los himbas celebrar la reunión.

Hikumene Kapika se presentó frente a

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El jefe Paulus Tjavara (a la izquierda) y el jefe Hikumene Kapik durante su visita a Suecia. Foto: Terese Sveijer

la suprema corte de Namibia donde obtuvo reconocimiento a sus derechos e indemnización por el atropello policial. El gobierno ha sido severamente criticado por diversas partes, los partidos de oposición acusan al gobierno por su tratamiento antidemocrático del pueblo himba.

Los himbas que están a favor de una represa no han tenido mayores dificultades para perfilarse y lograr que su voz sea escuchada en los corredores donde se toman las decisiones. Es lamentable que las autoridades actúen de una manera tan parcial, tratando de excluir a la gran mayoría de los himbas que están en contra del proyecto de represa. Para garantizar los derechos y necesidades de todas las partes, es necesario un diálogo abierto en el cual todas las partes participen en la discusión del desarrollo de la región.

La problemática es complicada y no parece demasiado favorable para los opositores a la represa, pero el pueblo himba es fuerte, orgulloso y tenaz, debemos tener la esperanza de que tengan fuerza para seguir luchando, para participar en «su desarrollo». Se puede comprender que un país quiera desarrollarse, pero existen alternativas a la construcción de una represa. Namibia es un país con enormes posibilidades. El motivo y el método del gobierno para impulsar un proceso de desarrollo podrían haber sido distintos, pero todavía no es demasiado tarde...

«No vamos a abandonar estas regiones, vamos a seguir aquí, y el gobierno se verá obligado a matarnos uno tras otro. Preferimos morir antes que abandonar las regiones donde vivimos». Jefe Hikumene Kapika.

Terese Sveijer *estudia antropología social en la Universidad de Lund, Suecia, y en 1996 realizó estudios menores de campo entre los himba.* ❑

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COLOMBIA

SE AGRAVA LA SITUACIÓN DE LOS PUEBLOS INDIGENAS

En los últimos meses se ha agravado el clima de violencia que vive Colombia, afectando particularmente a las comunidades indígenas que viven una especie de fuego cruzado entre el ejército nacional, grupos paramilitares y la guerrilla. En este número de Asuntos Indígenas queremos resaltar los abusos que se vienen cometiendo en Coqueta y Choco, donde varios indígenas han sido asesinados. Se teme que las amenazas y muertes continúen.

Koreguajes Asesinados

Relato de los hechos ocurridos el viernes 25 de julio de 1997 en la comunidad coreguage de San Luis

A las seis de la mañana del día 25 de julio de 1997, llegan a la comunidad coreguaje de San Luis, 13 personas vestidas con uniforme camuflado militar, las caras pintadas de negro, sombrero de ala como los que usa la policía, botas de caucho ecuatorianas, fusil G3, metralletas, revólver y cartucheras de munición terciadas al pecho. Eran "blancos", bien hablados. Rodeando el caserío, había otros integrantes del grupo en un número no determinado. Algunas personas de San Luis, dicen haber reconocido a tres de ellos, que habían estado allí el 19 de mayo a las 7 de la mañana, cuando se llevaron a tres integrantes de la comunidad, de los cuales no han tenido noticia.

Llamaron a la comunidad diciendo, "salgan todos, niños, viejos, mujeres, que nadie quede en casa". Todos los habitantes fueron ubicados en el centro del caserío al pie de los árboles de mango, separadas las mujeres y los niños de los hombres. A ellos los hicieron tender boca abajo sobre el piso. A las personas a quienes venían buscando, las sacaron directamente de sus casas sin darles tiempo de vestirse, "que salgan como estén", les gritaban. A Leonardo Figueroa, a quien encontraron en el camino que conduce a la chacra, pues había salido temprano a trabajar, lo hicieron volver. Uno de los que sacaron de la casa dijo que estaba enfermo, que le dejaran poner las botas, los uniformados le gritaron "¡respete la guerrilla!". Los fueron ubicando en la casa que estaba construyendo Edgar Camacho, camino a la chacra. Allí los tendieron en el suelo, boca abajo con las manos atádas atrás. No se les permitió hablar.

Los uniformados que llegaron se presentaron inicialmente diciendo que eran del ejército, al que comandaba el grupo, lo llamaban "mi cabo", éste llevaba una libreta pequeña con los nombres de las personas que buscaban. Al resto de los hombres de la comunidad, que eran 10, los tendieron en el suelo, al pie del palo de mango, les pedían que dijeran el nombre y presentaran su documento de identidad. Entre ellos se encontraba Silvio Piranga, ex-cacique de San Luis y líder de la comunidad, lo hicieron parar y le dijeron: "vaya donde están los otros finados", señalando el lugar donde tenían a las personas que traían en lista.

Con los uniformes venía una persona que vestía igual a los demás, pero no portaba armas y tenía la cara tapada con un poncho negro. Los habitantes del caserío lo llamaron "sapo". No hablaba, sólo aprobaba o reprobaba a quienes señalaban, tampoco entró a lascasas, siempre estuvo fuera. Las mujeres le gritaron en lengua koreguaje, "Fanio mu muu", que quiere decir, este es Fanio y él volvió a mirar. Al parecer, era un indígena que reconocieron por la estructura de su cuerpo y la forma de caminar.

Todas las casas fueron requisadas. De ellas sacaron las armas que había, algunos revólveres y escopetas de fisto, utilizadas para la cacería, una escopeta calibre 12, perteneciente a Abraham Figueroa, que tenía salvoconducto y otra calibre 16 perteneciente a Silvio Piranga. La casa más requisada fue la de Abraham Figueroa, maestro de la escuela, de allí también se llevaron una máquina de escribir y una cámara fotográfica. De todas las casas sacaron el poco dinero que tenían las familias.

De las mujeres, llamaron a la esposa de Abraham, pareció en un principio que iba a ser llevada con los que estaban amarrados, pero el llamado "sapo" hizo un gesto de negación con las manos. Ella les preguntó por qué se llevaban a su esposo, si él no le debía nada a na lie, pero no le respondieron nada. Sin embargo, le permitieron ir donde estaba su esposo, allí le pudo hablar en lengua koreguaje durante unos quince minutos. Abraham le decía "de pronto no vuelvo. Cuente lo que pasó y no se quede en la comunidad". Silvio le preguntó por María, su esposa, le recomendó que cuidara sus hijos y la viuda, lo mismo le dijo Edgar Camacho. El uniformado que los cuidaba, le pidió que tradujera lo que estaban hablando, sin embargo, ella dijo otra cosa.

La esposa de Abraham se sentó sobre un palo, sin decir nada, cuando se los llevaron en fila india, encabezaba la fila Abraham, su esposo. Ella se quedó mirando el camino por donde los llevaban. Ellos llorando, gritaban en legua koreguaje: "jaco raijuu... jaco raijuu.... mamá, venga por nosotros".

A los cinco minutos se escuchó una descarga de fusil, de aproximadamente treinta tiros. Los cadáveres fueron encontrados a trescientos metros de la comunidad, por el camino que conduce a la chacra y el cementerio, cerca de un árbol grande. Los colocaron en forma circular, boca abajo, con los pies hacia el centro. Los disparos fueron a la altura del cráneo, en la parte posterior, desfigurando por completo la cara hasta el punto de no reconocerlos y dejando en el lugar, un hueco de unos veinte centímetros de diámetro.

Pasados varios minutos de escuchar la detonación, la comunidad corrió al lugar de los hechos. Otros se dirigieron a la Inspec-

ción de Granario para notificar al Inspector de Policía y unas ancianas llegaron al Colegio de Mama Bwe para contar lo sucedido.

Los indígenas masacrados, identificados por el Inspector de Policía de Granario fueron:

Dionisio Figueroa, de 32 años, Cacique de la comunidad
Silvio Piranga, de 42 años, ex-cacique y líder de la comunidad
Abraham Figueroa, de 35 años, maestro de la escuela de San Luis y estudiante de la Universidad de la Amazonía
Edgar Camacho, de 37 años, maestro de la escuela de Buenos Aires, ex-coordinador del proceso de Etnoeducación en el sector
Carlos Arturo Valencia, de 37 años, estudiante de la Universidad de la Amazonía
Reymundo Figueroa, de 54 años
Leonardo Bolaños, de 33 años

Una vez que se hizo el levantamiento de los cadáveres, fueron trasladados a la comunidad y arreglados por sus mujeres. A tres de ellos, Abraham Figueroa, Silvio Piranga y Carlos Arturo Valencia, los llevaron a la comunidad de Agua Negra. El sábado 26 en las horas de la tarde fueron sepultados después de tener una celebración eucarística en las dos comunidades.

Este relato fue tomado con las personas de la comunidad de San Luis que fueron testigos de los hechos.
Resguardos coreguages de Agua Negra y San Luis, julio 26 y 27 de 1997. ❑

En este caso de genocidio no tenemos que asumir la tarea de enumerar los muertos para afirmar que los censurables actos, perpetrados recientemente en contra del pueblo korewahu, no son más que un exterminio cultural.

El pueblo korewahu, forma parte de la gran familia, lingüísticamente clasificada como Tucano Occidental que ancestralmente ha ocupado el piedemonte amazónico sub-andino, correspondiente a los actuales departamentos del Caquetá, Putumayo, y parte de la Bota Caucana. Este pueblo se ubica principalmente en las cuencas de los ríos, caños y quebradas afluentes al Caquetá. (Orteguaza, Penaya y Consaya).

Los asentamientos de koreguajes -versión española- ascienden a 27 y su población ha sido estimada en 2.200 individuos. A pesar de la cercanía con Florencia, Granario y Remolino los korewahu son monolingües en una altísima proporción, lo cual es una característica muy importante, pues su lengua constituye un eje fundamental para su definición como entidad político-cultural. Este elemento, sumado al territorio y las creencias religiosas propias les han permitido afrontar una obligada "convivencia" con el mundo de los kunapi, blancos o gentes del metal, relación que ha estado históricamente marcada por los embates de múltiples prácticas de invasión y destrucción del territorio y de la cultura korewahu. Prácticas que van desde las "pacificaciones" misioneras hasta las incursiones más recientes de caucheros y coqueros con el establecimiento de órdenes sociales ajenos que se van imponiendo por la fuerza, como una vez más podemos constatarlo hoy.

La sociedad korewahu se organiza actualmente de acuerdo con las pautas que señala el ordenamiento administrativo del gobierno colombiano, existe en cada aldea un cacique encargado de representar a su gente, tanto ante las organizaciones indígenas regionales y nacionales, como ante las instancias estatales; pero también existe paralelamente una jerarquíainterna, adoptada tradicionalmente, ligada a la supervivencia de clanes y linajes, en este nivel de organización social, se destacan hombres que tienen "sabiduría, poder y conocimiento", son los chamanes, llamados ya sea *chai* o *bati*, cada vez más escasos en razón del avance misionero y de la substitución que de ellos han logrado la escuela y los programas sanitarios y de asistencia social.

Korewahu, significa "gentes de la garrapatilla", es a su vez un epónimo que recubre a segmentos de *inganos, carijonas, tamas, uitotos*, que adoptaron la lengua, las características de organización social y que comparten el territorio ocupado desde muy antiguamente por unos seres llamados *pookorewahu*, en los mitos de génesis. De ellos se afirma que eran muy pequeños, de color blanco, que se ubicaban en las partes más altas y secas; se dice que tenían un gran control, conocimiento, poder y sabiduría. Estos seres provendrían de un sitio incierto y a su paso por el Orteguaza, el Caguán, el Caquetá y el Putumayo irían en busca de una gran laguna. Probablemente en esta búsqueda los haya sorprendido la conquista, y los korewahu que actualmente ocupan el territorio son sus descendientes. ❑

No matemos a los *koreguaje*, reconstruyamos más bien su existencia

Con el solo argumento de la autoridad armada se ha emprendido en el Río Orteguaza una campaña de asesinatos del pueblo indígena *koreguaje* (korebaju), manifestada en las masacres del 20 y 25 de julio pasado, donde murieron trece (13) hermanos indígenas, dejando atrás una estela de llanto de mujeres y de niños solos. Y una lista de 60 amenazados se cierne sobre las comunidades indígenas, como una afilada espada que terminará por ahogar la vida y las esperanzas de este pueblo, el cual cuenta apenas con 1.400 habitantes.

Hasta hace 20 años los koreguaje vivían relativamente tranquilos; la bárbara época de las caucherías era un recuerdo lejano; la selva era pródiga en frutos, animales y plantas medicinales; los ríos eran limpios y ricos en pescado; la educación occidental complementaba la enseñanza de los ancianos; eran fuertes los liderazgos internos, la vida transcurría alrededor de las chagras. Miles de años de ocupación habían delimitado las unidades territoriales básicas de la etnia en los ríos Orteguaza, Peneya y Consaya. Pero desde 1978 se promovió desde el Estado y desde las fuerzas insurgentes un amplio proceso de colonización hacia la región del Caquetá, que por la facilidad de ingreso tuvo su eje en el río Orteguaza. En muy breves años los indígenas perdieron la mayoría de sus territorios siendo confinados en resguardos exiguos; la selva fue talada y los potreros resultantes se llenaron de ganado y de coca, y los ríos empezaron a enturbiarse, acabando los medios de subsistencia de las comunidades.

Se instauró un nuevo orden social fuertemente influido por la confrontación armada que vive el país, donde lo único importante es la conservación del dominio territorial y de fuentes económicas para la guerra, pasando a segundo plano la vida social, la cual se organizó o desorganizó con total ignorancia de que se trataba de un territorio indígena y de una zona de selva amazónica, imponiéndose un modelo indigno de vida caracterizado por la ilegalidad, el alcohol, las muertes por limpieza social, la incapacidad de ahorro, la imprevisión económica, la ausencia de servicios públicos, las enfermedades, la violencia en las familias, el alto costo de la vida y la incertidumbre propia de las regiones cocaleras. ¡Y pensar que la Conquista había sucedido 500 años antes! Dos décadas de tragedia que hicieron infelices a los habitantes nativos y mantienen a los colonos en condiciones de miseria, indignidad y zozobra insostenibles.

Cuando en 1993 los indígenas protestaron por las pistas del narcotráfico en los propios linderos de los resguardos, comenzó la violencia entre la etnia koreguaje, auspiciada por los otros bandos en conflicto, que hasta marzo de 1997 había cobrado la vida de 21 indígenas, entre ellos connotados líderes como Aquiles Bolaños, Roque Piranga y Luis Piranga. Y en julio de 1997 llegaron las masacres, con lo cual los indígenas terminaron ajusticiados por una situación de la que en vez de ser los culpables son las más sufridas víctimas.

Al decidir este genocidio, no se pensó por un momento en los derechos de los pueblos indígenas ni en las circunstancias que han rodeado o cercado la existencia de las comunidades koreguaje en los últimos 20 años.

Cuestionemos entonces cuál es la responsabilidad política de quien empuña las armas contra el pueblo koreguaje. No le vemos ningún sentido a que en la búsqueda de cambios radicales en la sociedad de capitalismo corrupto, injusta, excluyente y autoritaria en que vivimos, la primera víctima vayamos a ser los propios sectores populares, y se sacrifiquen valores tan importantes para el presente y el futuro como el reconocimiento de la diversidad étnica y cultural de la nación.

Los Pueblos Indígenas de Colombia manifestamos nuestra solidaridad plena con el pueblo koreguaje, y quedamos alerta para su defensa.

- Exigimos el respeto incondicional a la vida de todos y cada uno de sus miembros, cesando inmediatamente los asesinatos;
- Condenamos enérgicamente las masacres del 20 y 25 de julio pasados;
- Reivindicamos el derecho del pueblo koreguaje a su autonomía y a encontrar por sí mismo su propio fortalecimiento;
- Hacemos un llamado a la sociedad caqueteña y nacional para rodear de afecto y de justicia al pueblo koreguaje, propiciando su reconstrucción territorial y étnica;
- Rechazamos los ajusticiamientos de indígenas o colonos como método de control en las zonas cocaleras;
- Reclamamos una guerra y una paz donde sus protagonistas tengan en cuenta el respeto por los pueblos indígenas, por los frágiles ecosistemas de selva húmeda tropical de la Amazonía, y por el derecho a una vida digna de los compañeros colonos.

Comité Ejecutivo de ONIC

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ACCIÓN URGENTE POR LOS PUEBLOS EMBERA - WOUNAAN - KATIO - CHAMI Y TULE DEL DEPARTAMENTO DEL CHOCO

La Organización Regional indígena Embera Wounaan del Chocó OREWA, conformada hace más de 17 años, por los pueblos *embera, wounaan, katio, chamí* y *tule*, que en un número mayor a los 50.000 indígenas, habitamos el Departamento del Chocó. Región famosa en el mundo por ser un área de bosque húmedo tropical que cuenta con una gran biodiversidad.

Nos organizamos para que se nos reconociera como pueblos con derecho a seguir existiendo y para luchar por una vida digna. Por ello, nuestras luchas se han centrado en el reconocimiento de nuestros territorios; en buscar programas de educación y salud, acordes a nuestras necesidades y cultura.

Desde hace varios años, con la Organización Regional Embera Wounaan del Chocó, venimos haciendo llamados a las instituciones que tienen que ver con la problemática territorial de los pueblos indígenas del Pacífico Colombiano, para que dentro de un proceso de reflexión conjunta podamos encontrar las soluciones a las necesidades y derechos territoriales que tienen nuestros pueblos.

En especial, nuestra preocupación ha sido la de que definamos y se lleven a su práctica políticas claras y coherentes que reconozcan nuestros derechos territoriales, sociales y culturales, junto a los derechos de otros grupos dentro de un marco de relaciones y complementariedades.

Hemos trabajado para que, sin apasionamiento, diseñemos las acciones de reconocimiento territorial para nuestros pueblos y de nuestros amigos y vecinos, como un primer paso para generar propuestas de desarrollo propio y adecuados para la región, dentro de un marco de respeto por la diferencia y por medio de la concertación y el diálogo con los diferentes sectores sociales y gubernamentales.

Pero, por ser el Chocó una región de gran importancia geoestratégica, no sólo, por su riqueza biológica, sino por poseer costas sobre dos océanos, se proyectó realizar en esta región grandes obras de infraestructura como: carreteras, explotaciones mineras, petroleras y forestales, que han hecho que nuestros territorios se conviertan en campos de batalla de di-

ferentes fuerzas, por su dominio económico, político, territorial y militar.

Por esta razón, al igual que toda la población del departamento, nuestros pueblos embera, wounaan, katio, chamí y tule se encuentran en medio del conflicto, en condiciones de grave vulnerabilidad.

A este panorama los pueblos indígenas, que jamás hemos sido pueblos sometidos, pues jamás fuimos vencidos y que nunca hemos dejado de luchar porque se reconozcan nuestros derechos territoriales, a pesar de que por la presión colonizadora nos hayamos visto obligados a remontarnos a los cursos medios y altos de los ríos y quebradas que entrecruzan toda la Región Pacífica y en ellos hemos creado y recreado nuestra cultura como pueblos libres, junto a nuestra organización, hemos respondido con la política de reivindicar nuestra autonomía. Entendida esta, como el derecho que tienen nuestros pueblos de gobernar en nuestros territorios, de ver, sentir y concebir el desarrollo de acuerdo con nuestras formas culturales.

Para ello, nos hemos trazado unas tareas de ordenamiento territorial, basado, en primer lugar, en un firme control y pleno disfrute de nuestros territorios y los recursos que allí se encuentran, en segundo lugar, nos hemos planteado la utilización de esos recursos para lasatisfacción permanente de todas nuestras necesidades vitales, pero en consonancia con nuestros pensamientos y acciones que reivindican la tierra y el territorio como la madre, como el fundamento de nuestro origen y el sostén de nuestro futuro. Y, en tercer lugar el imperativo que tenemos de reformular los procesos de relaciones interétnicas que se dan en nuestros territorios, lo mismo que las relaciones interculturales con el resto del país.

Pero, también, entendemos que a lo largo de nuestra historia hemos contado con el apoyo y abrazo solidario de pueblos, organizaciones y personas amantes de la libertad, la justicia, la paz y que entienden el derecho que tenemos a ser pueblos con futuro y dignidad.

Hoy, cuando nos encontramos sorprendidos por la avalancha de situaciones complejas que nos hacen dudar y nos llenan de dolor requerimos de esas voces amigas y su apoyo para que nos ayuden a salir adelante en esta región que es una, donde en Colombia, con mayor fiereza se están violando los derechos humanos de sus habitantes y en particular los derechos de los grupos étnicos indígenas y negros, sin que la mayoría de la sociedad colombiana se percate de ello, pues los intereses del los grandes empresarios y del gobierno están primando y por ello las restricciones y autocensura se han impuesto.

Las comunidades indígenas se encuentran diseminadas a lo largo y ancho del Departamento del Chocó y por eso mismo la situación que están viviendo es muy compleja, pues la violencia nos toca por todas partes y a todas las comunidades.

Entre las formas de violencia, presión y chantaje a que estamos sometidos están:

1. Los procesos económicos basados exclusivamente en la extracción de los recursos naturales.
2. Los planes de construir grandes obras de infraestructura que tiene el Gobierno Colombiano.
3. La falta de coherencia y voluntad política de los diferentes entes estatales que tienen que ver con la aplicación de las políticas que le reconocen derechos a los pueblos indígenas.
4. La presión a que está sometida la población indígena que impide el libre tránsito por sus territorios, la circulación de mercados y medicamentos.
5. El irrespeto a nuestras autoridades y organización al señalarlas como miembros de uno u otro bando.
6. El atropello físico a nuestras mujeres y el asesinato y desaparición de líderes y miembros de nuestras comunidades.
7. El reclutamiento de miembros de nuestras comunidades, por parte de los diferentes actores del conflicto armado.

Somos pueblos que estamos convencidos, que la violencia no se transforma con más violencia, como lo creen algunos políticos y dirigentes de los gremios económicos, que marchan por la paz armados de odio, egoísmo e intereses personales. Para nosotros la violencia sólo se transforma con la voluntad de todos, comprometida en consensos y acuerdos que beneficien a las mayorías.

Por ello, creemos que la paz no es el objetivo mayor sino una condición necesaria para realizarnos armónicamente en nuestras comunidades y para ello necesitamos justicia social y respeto por el otro, para que así logremos disfrutar del bienestar que otorga una vida digna y humanizante.

El torno a la situación de violencia, en todas sus formas, exhortamos a los pueblos, organizaciones y personas solidarias con la causa de los pueblos indígenas del Chocó a que se dirijan a las autoridades de nuestro país:

Ernesto Samper Pizano
Presidente de la República de Colombia

Carlos Holmes Trujillo
Ministro del Interior

Gilberto Echeverry Mejía
Ministro de Defensa

Gustavo Gómez Méndez
Fiscal General de la Nación

Jaime Bernal Cuellar
Procurador General de la Nación

Otilia Dueñas
Gerente General del INCORA

Franklin Orlando Mosquera Montolla
Gobernador del Chocó

Cr. Paulino Coronado
Comandante de la Fuerza de Tarea del Chocó

Carlos Quiro
Cabildo Mayor Bajo San Juan

Indalecio Caizamo Conde
Cabildo Mayor Alto Baudó

José Elin Saitamo
Delegado Medio Atrato No. 3

Leonardo Rojas Tapi
Delegado Medio Atrato No. 1

Tulio Pepe Cheche
Cabildo Mayor Alto Andágueda

Francisco Bailarín
Delegado Medio Atrato No. 2

Jairo Havier Peña Carpio
Delegado Cabildo Mayor Medio San Juan

César Queragama Arce
Delegado Cabildo Mayor Alto San Juan

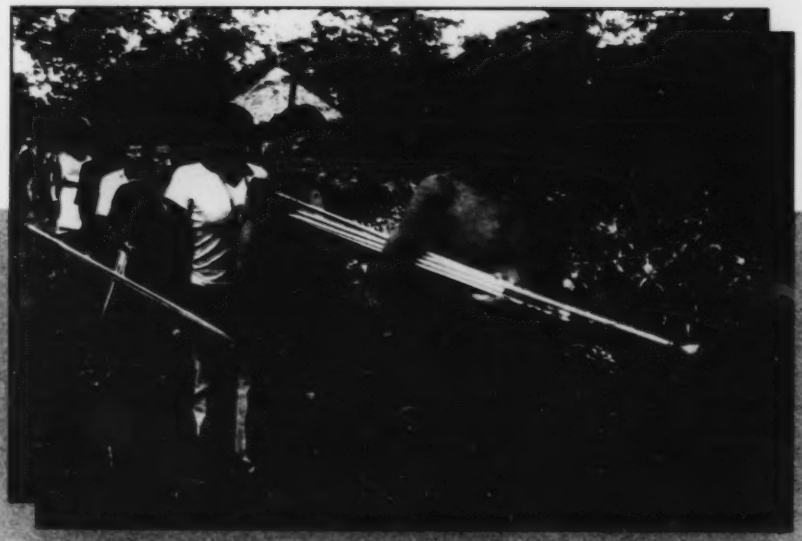
Elicio de Jesús Caizamo I.
Cabildo Mayor Medio Baudó

Asnoraldo Casama G.
Cabildo Mayor Bajo Atrato

Delmiro Palacios Ortega
Cabildo Mayor Bajayá

Cecilio Achito
Cabildo Mayor Jurado

Luis Eduardo González
Delegado Cabildo Mayor Carretera ❑



PERU

Continúan las dificultades para el retorno de los refugiados asháninka de la Selva Central

Entrevista con Guillermo Ñaco,
Coordinador de la Regional Selva Central de AIDESEP

Los pueblos indígenas de la Selva Central han sido especialmente golpeados por el ingreso, en la zona a principios de la década del 70 por parte de la guerrilla de Sendero Luminoso paralizando el proceso de titulación y obligando a unos 10.000 indígenas asháninka, machiguenga y yinne a refugiarse hacia la región alta del río Apurímac. Se estima también que durante este período unos 3.500 a 5.000 indígenas murieron a causa de la guerra.

La paulatina pacificación de la región en los últimos años ha posibilitado un proceso de retorno de los refugiados internos bajo condiciones extremadamente difíciles. La falta de apoyo económico, la desnutrición y las enfermedades se sumaron al hecho de que sus tierras habían sido entregadas a compañías madereras o colonos bajo condiciones de dudosa legalidad.

En este contexto, la Comisión de Emergencia Asháninka desde el año 1994 ha venido sirviendo como base para el retorno organizado de los refugiados internos y llevando a cabo una fuerte lucha para la recuperación de las tierras ocupadas. Este proceso sigue encontrando tropiezos, tanto por parte de algunas autoridades así como de las compañías madereras y de nuevos focos de violencia.

Para exponer el punto de vista de AIDESEP, IWGIA entrevistó en Perú, en el mes de diciembre de 1997 al coordinador de la Regional de la Selva Central, Guillermo Ñaco.

IWGIA: *¿Bajo qué condiciones se dieron las concesiones forestales en Satipo y Pangoa?*

Guillermo Ñaco: Los contratos forestales se firmaron en 1988, por el ingeniero Luis Tulio Rodríguez del Aguila, Director de la Unidad Agraria Departamental de Junín, en una época donde Sendero Luminoso era especialmente fuerte en esa zona. Nosotros ponemos en duda la legalidad de estas concesiones ya que las autoridades no realizaron las consultas previas a los indígenas, tal como lo indica el Convenio 169 de la OIT, que en nuestro país es ley, la número 26.253.

Las autoridades sostuvieron, equivocadamente, que las concesiones se otorgaron en tierra de nadie. Podría dar el ejemplo de la empresa Negociación Maderera Travi Satipo SR Ltda. que le adjudicaron derechos forestales sobre territorios titulados en 1.984, 1.986 y 1.994, pertenecientes a las comunidades Matzuriniari, Etzoniari Alto, Krotishari, Potzoteni, San Emiliano de Cachingarani, Mapotoa y Sanibeni.

IWGIA: *¿Cómo se explica que las compañías madereras hayan podido trabajar libremente en zonas controladas por los senderistas?*

GN: Eso nos preguntamos también nosotros. La cuestión es curiosa ya que mientras nuestro pueblo tenía que huir y nuestros comités de autodefensa enfrentarse con la subversión, esta gente ocupaba nuestras tierras. Era una zona donde reinaba el narcotráfico y Sendero y no sé bajo qué acuerdos, los contratistas podían sacar madera sin problemas.

IWGIA: *¿Qué acciones ha tomado la CEA para implementar la titulación de las comunidades retornadas?*

GN: Supuestamente la titulación de comunidades en Perú es gratuita y es deber del gobierno legalizar todos los territorios. Asimismo, sabemos que en la práctica la cosa no es tan fácil y si se quiere titular las organizaciones deben conseguir apoyo económico del exterior para realizar los trabajos

necesarios. En nuestro caso, la Fundación Solsticio de Dinamarca nos apoyó con un fondo suficiente para que, junto al Ministerio de Agricultura, se hagan los trabajos topográficos y de gabinete de la zona de Pangoa.

IWGIA: *¿Pero parece ser que justamente en Pangoa no se ha avanzado lo suficiente, a pesar de la urgente necesidad de legalizar esa zona?*
GN: En el caso de Pangoa la situación es complicada y sinceramente no entendemos que después de tanto tiempo las autoridades sigan impidiendo la titulación de nuestro territorio. Creo que sería necesario señalar que el 13 de diciembre de 1996 se firmó un convenio para la titulación de ésta región entre la Comisión de Emergencia Asháninka y la Dirección Regional Agraria de la Región Avelino Cáceres a cargo del ingeniero Humberto Jinéz Arroyo. El programa comprende la titulación y ampliación de las comunidades de Río Blanco, Mayni, Tincaveni, Mencoriari, Santa Fé de Yaviroa y Tzonquireni. Este es un territorio que nos pertenece históricamente.

El Ministerio no sólo no las ha titulado sino que ha exigido el depósito de 9,856 dólares en la cuenta corriente 508014619 del banco Interbank, supuestamente para solventar los gastos operativos de la gestión. A pesar de conseguir estos fondos hasta ahora lo único que vemos es la falta de voluntad del gobierno para solucionar nuestra situación. Las autoridades sostienen la imposibilidad de la titulación por las concesiones madereras.

En una reunión que mantuvimos con el Ministro de Agricultura, Sr. Rodolfo Muñante Sanguinetti, en agosto del 97, éste señaló que las titulaciones son gratuitas y no se debió exigir dinero alguno. En esa oportunidad, el Sr. Ministro prometió los títulos de propiedad de las comunidades de Pangoa, promesa que también nos hizo el Ing. Juan Casas Ucedas, Director del PETT. Pese al tiempo transcurrido no hemos tenido noticias del Ministerio.

IWGIA: *Tenemos entendido que la Selva Central no está totalmente pacificada y que incluso se habla de un rebrote de Sendero Luminoso. ¿Cómo evalúan ustedes la situación actual?*
GN: En la actualidad parece haber un resurgimiento de algunos focos senderistas. En las últimas semanas hemos registrado movimiento de grupos armados en las zonas de Apurimac y el Ene. Esto viene causando temor dentro de las comunidades por lo que los grupos de autodefensa indígena están muy atentos ante eventuales ataques. Incluso en algunas comunidades donde se disolvió la autodefensa, la gente volvió a armarse. Sin duda, el eventual recrudecimiento de la violencia en la región va a dificultar el retorno de las comunidades.

Sabemos que fuera de nuestras fronteras, Sendero Luminoso goza de cierto apoyo por una parte de la izquierda. Es importante que se conozca en el exterior, especialmente en Europa, que el Sendero Luminoso está muy lejos de ser un movimiento revolucionario en favor del pueblo. De hecho son grupos antiindígenas y genocidas que han causado muchos sufrimientos a nuestro pueblo. Para nosotros ha sido un patrón más para los indígenas.

IWGIA: *¿Cuáles son entonces las vías que tu consideras apropiadas para apoyar la pacificación de la región?*
GN: Consideramos que la única manera de garantizar la pacificación de la región es apoyar la consolidación territorial de las comunidades indígenas, por lo que pedimos que las autoridades no continúen poniendo barreras para la legalización de nuestro territorio. Es nuestro derecho y es la obligación del estado peruano cumplir con sus obligaciones. ❑

Premio Bartolomé de las Casas

El 16 de diciembre de 1997, el jurado del Premio Bartolomé de las Casas se reunió en Madrid y decidió otorgar el premio correspondiente a 1998 a los pueblos indígenas u'wa de Colombia en reconocimiento a su lucha en la defensa de sus territorios ante la amenaza de las compañías petroleras, así como también al señor Sidney Possuelo por su apoyo a los pueblos indígenas en Brasil.

El Premio Bartolomé de las Casas fue establecido por el gobierno español en 1992, y ha sido otorgado tanto a varias organizaciones indígenas como a personas que se han destacado por su trabajo en apoyo a los pueblos indígenas del continente americano.

El jurado correspondiente a 1998 estuvo integrado por:

Fernando Villalonga, Secretario de Estado por la Cooperación Internacional y América Latina,
Eduardo Gutiérrez, Director General de Asuntos Exteriores para América Latina,
Román Oyarzun, Director General del Gabinete para la Cooperación Internacional y América Latina de la Secretaría de Estado,
Diego Azqueta, Presidente de WATU,
Julian Burger, Coordinador de Temas Indígenas del Centro de Derechos Humanos de la ONU y
Alejandro Parellada, de IWGIA. ❑

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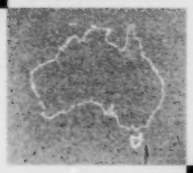
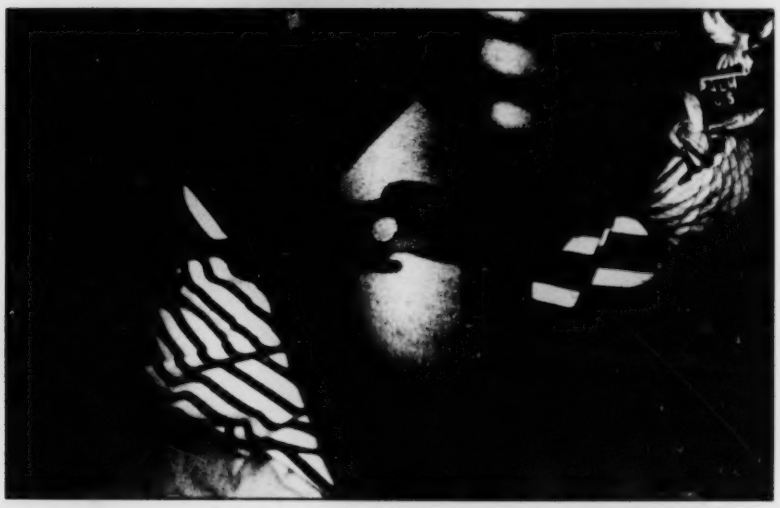
AUSTRALIA



¿Avanzando o retrocediendo?

por Olga Havnen



Bandera aborigen tatuada en el brazo simbolizando la voluntad de pelear por los derechos y el reconocimiento. Foto: Hanne Miriam Larsen

Introducción

En nombre de los *aborígenes* e *isleños del Estrecho de Torres* de Australia, quiero saludar y agradecer a los *samis* y noruegos que han hecho posible la realización de esta conferencia.[1] Las ONGs y el gobierno de Noruega merecen un agradecimiento especial por su iniciativa y patrocinio.

Las relaciones indígenas con los gobiernos parecen similares en forma alarmante en Australia, Noruega y Canadá. Dentro de dos días los noruegos se enfrentan a elecciones nacionales. Tenemos entendido que el consenso logrado penosamente por el Comité de Derechos Sami y los líderes sami con el Primer Ministro Brundtland a comienzos de 1980 está en peligro. Que conservadores del norte están tratando de doblegar al ministro en dirección de sus viejas ideas.

Tenemos una experiencia muy amarga de este tipo en Australia. Una elección durante las recientes semanas en mi "estado" natal, el Territorio del Norte, fue ganada por un partido con un una campaña francamente anti-aborigen. Han estado en el poder desde el comienzo de la autogestión del Territorio del Norte en 1978 utilizando esta táctica. Hoy, podemos observar todavía un prejuicio tan crudo en la política australiana. En vez de ser extirpado, es recogido por el gobierno federal y otros estados. Créanme: es un cáncer. Deben tomarlo seriamente y extirparlo antes de que infecte a toda la sociedad. En Australia ya es demasiado tarde.

Canadá y Australia son dos países tan similares en leyes, constitución, historia y geografía que hay un gran ámbito para aprender o adaptarse a las experiencias mutuas. En años recientes, en Australia parecía existir una atmósfera de cambio en lo relativo a los temas indígenas, acercándose a la del Canadá. Sin embargo, durante la campaña electoral nacional de febrero-marzo de 1996 hubo un estallido de estigmatizaciones raciales en Queensland. Al mismo tiempo los partidos Liberal y Nacional parecían ansiosos por impedir tales sucesos, y actuaron firmemente. No obstante, desde que ganaron las elecciones, los aborígenes, los isleños del Estrecho de Torres y las organizaciones que trabajaban con nuestros pueblos han sido marcados como objetivos en forma repetida. Parece extraño que mientras Australia celebra la derrota de la Alemania de Hitler y de Japón en forma abierta y constante como grandes victorias morales, los compromisos mundiales de posguerra contra el racismo no hayan sido tan bien recordados.

Nos enteramos de que Canadá todavía no se ha comprometido con las propuestas de la Comisión Real sobre Pueblos Aborígenes. Esperamos que esta demora sea meramente temporal. Tal como hemos aprendido con gran costo durante los últimos 18 meses pasados, los impulsos indígenas de reforma no están garantizados si dependen solamente de la buena voluntad de los actuales políticos en el poder. Se necesitan estructuras, procesos y derechos implementables, así como una financiación adecuada.

Mientras tanto, debemos reconocer que los conflictos sobre los derechos indígenas son similares en todas partes. No son tanto asuntos de cultura local como de luchas universales entre las mayorías poderosas y las mayorías marginales. El hecho de que los gobiernos de nuestros tres países estén presentes hoy celebrando esta conferencia con grupos indígenas y de derechos humanos es un buen signo. Quizá lo más importante que podamos hacer aquí es mostrar a nuestros gobiernos -es decir, a aquellos políticos y funcionarios que no asisten a las reuniones de derechos humanos- que convertir a las minorías indígenas en chivos expiatorios de las inseguridades pasajeras de las mayorías opulentas es indeseable e inaceptable.

Si países altamente educados, ricos, afortunados como los tres nuestros no mantienen las normas, ¿qué podemos esperar de los países pobres y los gobiernos brutales? No podemos aprobar simplemente resoluciones para que otros países las obedezcan; debemos practicar lo que predicamos. Noruega, Australia y Canadá serán tan efectivos en el campo de los derechos humanos como lo sea su ejemplo.

Derechos a la tierra, al agua dulce, al mar y a los recursos

El principal tema indígena australiano hoy en día es el título nativo a las tierras y mares. El 4 de septiembre, el gobierno federal

introdujo cientos de páginas de enmiendas a la Ley del Título Nativo de 1993. Su propósito es extinguir la mayoría de los derechos aborígenes reconocidos por la Suprema Corte sólo de palabra. La decisión *Mabo* de 1992 y la decisión *Wik* de 1996 reconocieron nuestros derechos. Ahora, después de 200 años de "colonización" europea -o invasión- los políticos australianos están completando la tarea anulando a sus propios tribunales.

Traje algún material sobre nuestro grupo de trabajo sobre títulos nativos, NIWG, a esta conferencia sobre este tema y espero que aquellos de ustedes que estén interesados hayan podido obtener copias. Si tienen preguntas específicas, trataré de responderlas.

En el norte de Noruega y del Canadá, existen grandes rebaños de caribúes o renos, de los cuales dependen los indígenas para su subsistencia y alimentación, al mismo tiempo que afluyen urbanizadores, constructores y colonos, interfiriendo con este estilo de vida indígena. En Australia tenemos colonos que introdujeron grandes manadas de animales, principalmente ganado y ovejas, en los territorios aborígenes e incluso en áreas remotas del continente. Estos colonos mataron a tiros a los aborígenes (frecuentemente con apoyo oficial) o les dieron harina envenenada, o los esclavizaron, o los desplazaron. A veces los tomaron como mano de obra mal paga, y a veces los trataron razonablemente bien. Estos pueblos indígenas fueron a veces completamente exterminados, pero a veces fueron capaces de encontrar formas de mantener sus tradiciones y cultura junto con la industria ganadera.

¡No importaba que la tierra de pastoreo fuera generalmente inadecuada! Las sequías de Australia y las condiciones desérticas no han detenido al hombre blanco en su conquista de la tierra. En cambio, los ganaderos obtenían áreas más y más grandes - pocas cabezas de ganado podían ocupar un área del tamaño de Bélgica nada más que para lograr el alimento suficiente, siendo esto una propiedad ganadera particular. Los ganaderos con sus muchos animales importados que se han convertido en animales salvajes han destruido los ecosistemas del país. Ganado de pezuñas duras, asnos, caballos, y camellos han destrozado los suelos y comido las plantas, condenando a las especies nativas de flora y fauna a la extinción. Pregunten a cualquier ambientalista australiano cuál es el principal problema de Australia. La respuesta es siempre la misma: la degradación de la tierra.

Así, los aborígenes que han sobrevivido de alguna manera al borde de los grandes establecimientos ganaderos o al borde de pequeños pueblos, generalmente en condiciones degradantes, son ahora los chivos expiatorios de la actual sequía terrible de Australia, a causa de la locura de la política rural histórica, y del empecinamiento de los ganaderos en áreas donde el ganado no tiene lugar. Somos ahora también chivos expiatorios de gobiernos impopulares y que no gozan de la confianza de las áreas rurales y remotas. Es decir, con la economía rural en crisis y las diversas políticas impopulares recientes, los gobiernos pueden ahora culpar a los aborígenes e introducir nuevas leyes punitivas. Pueden encauzar la ira blanca contra el gobierno contra los aborígenes.

Mientras tanto, los gobiernos muestran mapas para aterrorizar a la comunidad no-aborigen. Dicen que los aborígenes están tratando de apoderarse del 80% del país. Hablan de cómo los aborígenes pueden reivindicar los patios traseros suburbanos. En vez de mostrar un liderazgo moral manteniendo la ley, explicando la ley y los derechos, y conciliando los intereses legítimos, los gobiernos han encontrado más fácil unirse a las campañas de terror y culpar a los aborígenes. Éstos, siendo ya el sector más pobre, más enfermo, menos educado, menos influyente y de muerte más temprana del total de la población, tienen que ser culpados -se nos dice- por todo lo que angustia a las familias australianas. La retórica del gobierno de Howard, recién llegado al poder, sobre aborígenes y organizaciones aborígenes sería inaceptable en otros países del "primer mundo".

El informe sobre el medio ambiente mundial de la recientemente retirada Primer Ministro Brundtland hizo un llamado a Australia y Norteamérica, entre otros, para que elaboren sus políticas territoriales y ambientales basándose en el manejo de recursos indígenas y en su fortalecimiento. Los acuerdos de reivindicaciones de tierras del norte de Canadá son intentos de hacerlo, mientras que en Australia la desposesión definitiva de los aborígenes parece ser la política y el propósito de los gobiernos. Sin embargo, como podrán ver, este no es el único ataque contra los pueblos indígenas y su futuro en la Australia de hoy.

La situación en el norte, centro y oeste de Australia tiene sus ironías. Las universidades y las organizaciones científicas están enviando ahora a prolijos jóvenes urbanos para hacer grados de maestría y doctorados a los rincones más lejanos del país, para estudiar cómo los aborígenes manejaban la tierra y el medio ambiente. Se reconoce que el país tiene problemas, entonces ahora, demasiado tarde en muchas áreas, el conocimiento aborigen es el objeto de la búsqueda de los blancos. Es extraño observar a estos entusiastas jóvenes, manejando vehículos de tracción en las cuatro ruedas con el aire acondicionado abierto al máximo, comenzar su trabajo. Frecuentemente pasan con sus vehículos a través de las ruinas de los pueblos aborígenes locales, que están enfermos o muriendo en sus campamentos al borde del camino, viviendo bajo pedazos de metal o bolsas plásticas de desperdicio de color verde. Aunque el conocimiento aborigen del medio ambiente es un nuevo entusiasmo en Australia, los aborígenes pobres no lo son.

El caso de los Territorios del Norte

El Territorio del Norte, al igual que los territorios del norte de Canadá, es fundamentalmente un territorio de pueblos aborígenes. Esto resulta obvio para cualquier visitante, y es explotado por el turismo por parte del gobierno. Sin embargo, como los postes totémicos de la Columbia Británica, las galerías de arte rupestre del Territorio del Norte a veces parecen estar hechas por extraterrestres que volvieron de otro planeta, tan ausente están del interés del gobierno. Casi un cuarto de la población de los Territorios del Norte es aborigen, la mitad de las tierras del Territorio del Norte son de propiedad aborigen, y más de tres cuartos de la costa marina está en manos aborígenes. Sin embargo, el Territorio del Norte ha sido gobernado por el mismo partido populista de derecha, desarrollista y anti-aborigen, el CLP, desde antes de que el Territorio obtuviera la autogestión en 1978. En cada elección, tal como la de agosto de 1997, se plantea el mismo tema: se agita una campaña sobre "los negros" que supuestamente amenazan la propiedad y el futuro de los blancos.

La población blanca que controla el Territorio del Norte está cambiando constantemente. Pocos de ellos se quedan realmente muchos años en el Territorio del Norte, pero el CLP puede ganar el voto de aquellos que están presentes el día de las elecciones con su retórica e ideología anti-aborigen. Desde mediados de los años 80, el CLP ha estado demandando que el Territorio del Norte se convierta en un estado australiano de pleno derecho. Las dos razones principales y más frecuentemente expresadas son apoderarse de los derechos territoriales aborígenes, en manos del go-

bierno federal, y apoderarse de los dos grandes parques nacionales, Uluru (Ayer's Rock) y Kakadu, que están arrendados por los propietarios aborígenes al gobierno nacional. El CLP cree que un rápido desarrollo económicodel Territorio del Norte y una explosión de la población acompañarán a su apoderamiento de la tierra aborigen, a pesar del hecho de que gran parte de la tierra es desértica o tierra que los blancos no quisieron en primer lugar.

Será escandaloso si el gobierno australiano entrega a los aborígenes y sus tierras a otro gobierno en el cual ellos no confían, el gobierno del Territorio del Norte, un gobierno que ha prometido durante largo tiempo disminuir los derechos aborígenes, un gobierno sobre el cual ellos no tienen ninguna influencia. No obstante, esto es lo que aparentemente el gobierno de Howard tiene intenciones de hacer. Australia criticaría a cualquier otro país del mundo que alegremente transfiriera una población y un territorio contra sus deseos a otra jurisdicción. Pediremos al mundo a que ayude a Camberra a reconocer sus obligaciones relativas a la autodeterminación indígena en esta cuestión.

Mientras tanto, una inspiración para los indígenas de Australia, como en Noruega, ha sido la reforma de Canadá en los territorios del norte, fortaleciendo los derechos indígenas y los "acuerdos regionales" y creando estructuras de autogestión compatibles con las costumbres y culturas indígenas. El papel activo del gobierno canadiense en la intermediación de resultados pacíficos y justos en vez de abandonarse a los prejuicios arcaicos de los blancos del norte, ha sido ejemplar. Esto es muy diferente del Territorio del Norte de Australia. Ciertamente, las organizaciones indígenas, los gobiernos y los investigadores de Noruega, Canadá y Australia han observado cada vez más la política indígena en esos tres países en su relación mutua.

Otro territorio del norte emergente es el Estrecho Torres, una región de islas de pueblos melanesios en el rincón nororiental de Australia. Este mes una investigación parlamentaria presentó su informe sobre el futuro político de la región, un importante documento para la autonomía indígena. Hizo propuestas para superar la proliferación administrativa de oficinas y la fragmentación de la autoridad y para consolidar al estado federal australiano de Queensland, y autoridades regionales para las Islas. Se propone una Asamblea Regional de Estrecho Torres única para servir a los 6.000 isleños del Estrecho Torres, más de 500 personas de mezcla aborigen e isleña, y otras 2.000 personas que incluyen a muchas de origen asiático. La mayoría de la población no-isleña vive en la Isla Thursday, el centro administrativo y económico de la región, y sus islas inmediatamente adyacentes, la población más racialmente y culturalmente mezclada de Australia. El informe prevé un movimiento político más avanzado, la posibilidad de un estatus de territorio con autogestión como otras islas habitadas de Australia, como Norfolk, Christmas, y Cocos-Keeling. Repetidas veces el informe se basa en la experiencia *inuita* en el nuevo territorio de Canadá, Nunavut.

El líder isleño del Estrecho Torres, Getano Lui, Jr., hizo su presentación principal a los australianos de las propuestas de su pueblo y región inmediatamente después de una visita al norte de Noruega. Su mensaje central fue que:

> *"Los principios para la renovación constitucional del Estrecho Torres son simples. Necesitamos ser capaces de tomar decisiones sobre temas sociales, culturales, económicos y ambientales en nuestra región, no sólo tener el derecho a asistir a reuniones asesoras que pueden, o no, hacer que nuestras ideas accedan a los ámbitos pertinentes. Necesitamos un control real del personal y del presupuesto oficial, no la apariencia de control como sucede a través de ATSIC. Necesitamos los medios y facilidades para asegurar y desarrollar nuestra cultura".*

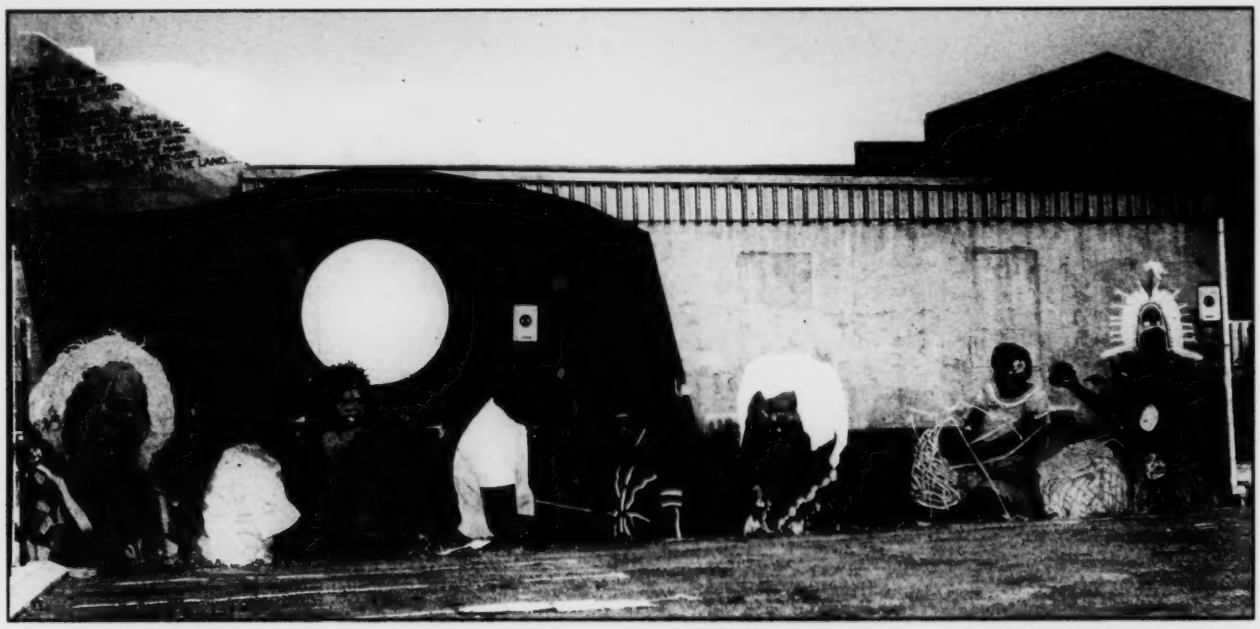
El Sr. Lui había también encontrado inspiración en conversaciones sostenidas con líderes samis sobre temas de pesca y en una visita al municipio sami del fiordo de Kaafjord. Como todos los visitantes de Australia o Canadá, quedó impresionado por el nivel de vida, de salud y el nivel de los servicios públicos y facilidades que gozaban los samis y todos los otros residentes del norte de Noruega. Esos niveles son muy diferentes de las malas condiciones de las comunidades indígenas del norte, oeste y centro de Australia. La política del gobierno australiano ha sido "arrojar dinero a problemas que ni siquiera creía que podían ser resueltos", dijo Lois O'Donoghue, líder fundador de la administración indígena ATSIC, del gobierno federal, antes de su retiro en 1996. Ella podría haber agregado que las cantidades de dinero que eran arrojadas no eran suficientes para cambiar la situación.

Política social

El tema social más discutido hoy es el de los Niños Robados. Decenas de miles de niños aborígenes fueron arrebatados de sus madres, generalmente de una forma brutal, reminiscente de los horrores de las guerras europeas de este siglo. Fueron separados durante décadas o para siempre de sus familias, y fueron criados en hogares blancos o instituciones blancas, sufriendo frecuentemente abusos, violencias, negligencia, y una interminable discriminación. Las heridas que estas barbaridades han dejado en los individuos y familias, y en la actual dirección aborigen, muchos de los cuales son Niños Robados, están más de toda descripción. Los horrores resultantes, las muertes y suicidios, los problemas familiares están presentes en nosotros diariamente. Una investigación hecha por el gobierno ha concluido que Australia ha violado las normas internacionales sobre el genocidio y otras normas, al tratar de concretar la eliminación prematura de la raza aborigen. Cuando las noticias de las conclusiones de la investigación se filtraron a fines de mayo de 1997, líderes claves del gobierno agregaron insultos a la injuria con sus insensibles y ofensivos comentarios. La noción de una disculpa oficial a los indígenas fue atacada, frecuentemente por los mismos individuos que son más elocuentes en la demanda de disculpas de parte de Japón por el maltrato de los prisioneros de guerra.

No insistiré sobre los Niños Robados porque el tema me es demasiado cercano en forma personal y también para aquellos que están más cerca mio. Es suficiente decir que el tema es una herida abierta en la vida e identidad aborigen de hoy, y que la respuesta del gobierno hasta la fecha se aferra a su plataforma de "compasión" y "valores familiares". Cuando el furor sobre el informe de los Niños Robados estaba en su cúspide en mayo, un experimentado ministro federal que conoce bien las necesidades indígenas tuvo el coraje de decir en la televisión que los australianos, desafortunadamente, todavía no comprendían la necesidad de disculpas y de medidas compensatorias. La tragedia es que hoy, muchos en el gobierno australiano, incluyendo sus figuras dominantes, no sólo "no saben", sino que no quieren saber.

Mientras tanto, para innumerables aborígenes e isleños, los temas sociales cotidianos son la pobreza o la falta de salud, alimentación, agua limpia, trabajos, vivienda, educación y capacitación, y el tratamiento por parte de la policía y el sistema de justicia. El éxito del gobierno al transformar las condiciones de vida, la infraestructura, los servicios públicos y las oportunidades de los samis y no-samis del norte de Noruega



Murales aborígenes - un ejemplo de cómo los indígenas australianos enfatizan su presencia políticamente y en el arte. Foto: Hanne Miriam Larsen

es un ejemplo para todos nosotros. ¿Por qué Australia y Canadá fracasaron en tantos lugares y a veces en regiones enteras, al hacer lo mismo?

El papel de los Gobiernos Nacionales

Australia ha quebrado el modelo de las colonias de ultramar del ex Imperio Británico, el cual contempló a los gobiernos centrales heredar de las autoridades imperiales de Londres la protección de los pueblos indígenas. El propósito de esto era evitar las peores formas de la violencia de los colonos contra los pueblos indígenas cuyas tierras querían. Aunque tales enfoques nunca funcionaron lo suficientemente bien, otorgaron a Canadá y a los EE.UU. un legado legal y político de tierras indígenas protegidas nacionalmente - es decir, protecciónconta los poderes de explotación de tierras y recursos por parte de las provincias y estados. A pesar de las intenciones de Londres de brindar una protección similar a los aborígenes, la mera distancia a Australia y la codicia de los colonos hicieron que la política fracasara.

Hasta 1967, el gobierno nacional australiano no podía representar ningún papel en los asuntos aborígenes. Ese año, un referéndum constitucional nacional otorgó abrumadoramente al gobierno federal un papel preponderante. Este cambio ha brindado alguna ayuda y esperanza a los pueblos indígenas, pero de ninguna manera suficientes. Durante los años recientes, los gobiernos en el poder han tendido a considerar al nuevo poder como una opción más que como un imperativo. El actual gobierno australiano cree firmemente que los asuntos indígenas son en gran medida asuntos correspondientes a los estados.

Durante los últimos meses, un libro único revela cómo un estado, Queensland, ha ejercido su papel indígena. Titulado *La forma como civilizamos*, la Dra. Rosalind Kidd investiga en el amplio abanico de los archivos gubernamentales para brindar una historia completa de la política indígena. La historia es chocante y escandalosa, y debería ser leída por todo aquel que desee comprender los problemas indígenas de la Australia de hoy. Esencialmente, los funcionarios blancos convirtieron a los aborígenes - y, en menor medida, a los isleños del Estrecho de Torres- en un grupo aislado sin derecho y demasiado poca alimentación y salud para sobrevivir más allá de como una población marginal al borde de la extinción. Fueron trasladados de una parte a otra, o las familias fueron divididas, o las relaciones prohibidas, al antojo de un puñado de señores blancos. El caso histórico de los aborígenes de Queensland tiene más en común con la esclavitud negra americana y las restricciones anti-judías de la Alemania Nazi (aunque deteniéndose apenas antes de la exterminación del Holocausto). No es casualidad que Sudáfrica encontró inspiración para su política del "apartheid" en Queensland. En años recientes, investigaciones especiales han destacado la continuación de las crisis en las comunidades indígenas de Queensland, problemas que no habrían sido tolerados en cualquier otro país del "primer mundo".

Queensland, Australia Occidental y el Territorio del Norte tienen hoy gobiernos que han aprendido que no deben perseguir a los pueblos indígenas abiertamente, por lo que se hace más artificiosamente, sutilmente. Desgraciadamente, no siempre hay mucho para elegir entre los partidos políticos, - el bonito discurso de los laboristas en la oposición no ha sido siempre tan bonito cuando forman gobiernos estatales. En estos tres estados el desafío a las Naciones Unidas y a la opinión pública internacional es un deporte popular en el debate y la acción política. Es casi considerado divertido arrasar bosques tropicales que forman parte del Patrimonio Mundial, o introducir leyes extremas que violan las normas internacionales de derechos humanos para controlar a la juventud negra, o sonríen estúpidamente mientras que expresan las palabras correctas sobre igualdad racial. Estos mismos políticos estatales son asiduamente educados, por supuesto, con los asiáticos -otro objetivo de populismo político en Australia- cuando visitan las grandes ciudades de las economías asiáticas orientales

y surorientales en busca de comercio, inversiones y turismo.

Noruega y Canadá han modernizado sus políticas indígenas, aunque de mala gana, en gran parte porque los gobiernos nacionales tuvieron que reconocer a la opinión mundial y las normas de derecho mundiales. En años recientes, Oslo y Ottawa han puesto en su lugar a los reacios gobiernos regionales y a los barones partidarios en interés de la integridad e imagen internacional del país. En Australia, el gobierno federal se esconde detrás del reparto de la soberanía del estado federal y lo remoto del país del escrutinio mundial y los equipos de TV para evitar el cumplimiento de sus obligaciones.

Algunos logros australianos

Australia dispone de algunas notables innovaciones. La más promisoria puede ser el proceso conducido por indígenas en 1994-95 de consultas comunitarias en todo el país combinado con seminarios de expertos y largas discusiones de tipo taller de trabajo para producir lo que equivale a una política indígena nacional, una política elaborada casi enteramente por pueblos indígenas. El Primer Ministro había invitado a presentar propuestas para "un paquete de justicia social indígena", y recibió tres informes superpuestos producidos en un entorno de mucha presión. Se habían puesto a disposición fondos iniciales para seguir el trabajo sobre las propuestas cuando el gobierno cambió en 1996. Desgraciadamente, el gobierno de Howard considera a la mayoría de las iniciativas que datan de los años del laborismo como corrompidas. No obstante, las propuestas de justicia social indígena representan un moderado y práctico consenso sobre una agenda sobre derechos y política. Son una necesidad virtual para cualquier futuro indígena y no desaparecerán.

Los logros sobre derechos territoriales en el Territorio del Norte y las tierras de Pitjantjatjara del noroeste del sur de Australia han sido significativos. También han habido muchos estudios y se ha escrito mucho sobre los aspectos legales, ambientales, sociales y tradicionales de los regímenes legales rurales en los trópicos áridos y húmedos/secos, y en áreas que todavía lo procuran, brindando una importante literatura de investigación mundial.

El papel del arte y los motivos aborígenes e isleños en la vida australiana ha sido considerable en años recientes, si bien no todavía central en la vida nacional como en Nueva Zelanda. El arte aborigen muy antiguo así como el moderno es un importante elemento del turismo australiano, aunque todavía no tan beneficioso para los mismos indígenas como sería deseable. El listado y la protección del patrimonio sagrado indígena y de otro tipo y de sitios importantes para el medio ambiente es un área de política pública y de programas que mejora lentamente y que parece bien encaminada hacia la práctica de Noruega y Canadá. Desgraciadamente, esta área brinda también ocasionalmente un alto perfil y conflictos inflamatorios que permiten a los oponentes describir a los indígenas como una amenaza para los trabajos de los blancos y los ingresos públicos.

Es innecesario decir que hay muchas iniciativas y programas locales inspirados y exitosos en las comunidades aborígenes e isleñas que tratan de todo tipo de cuestiones desde la energía solar, el tratamiento de alcantarillado, enfermedades sociales hasta la renovación espiritual. La vasta cantidad de culturas y tradiciones diferentes que constituyen a la Australia aborigen hacen que la cooperación y consenso político a veces sean difíciles de lograr - pero también brindan una infinita variedad de ejemplos y experiencias de posible interés para los pueblos indígenas del extranjero. El visitante de Noruega o Canadá encontrará en Alice Springs o Darwin un punto de partida ideal para experimentar un amplio abanico de respuestas indígenas culturales, sociales, políticas y económicas -así como urbanas, rurales, desérticas y de bosques tropicales- a condiciones antiguas y modernas. Hay más y más turismo indígena y "eco" turismo basado en esos dos centros para brindar al visitante con tanto confort o desafío físico como cualquiera pueda desear.

Observaciones concluyentes

Los gobiernos de Australia y gran parte del público consideran hoy a los derechos, cultura y aspiraciones indígenas como una frívola moda nacional elaborada por unos pocos negros maliciosos aliados con algunos intelectuales urbanos que votan a los laboristas en los años 80 y 90. Casi no existe reconocimiento de que en otros países del "primer mundo", los partidos de izquierda, derecho y centro han apoyado e implementado tales reformas políticas durante las décadas pasadas; o que ahora se otorga nuevo reconocimiento y valor a las culturas indígenas, el desarrollo sustentable y a los imperativos políticos en el mundo entero. El beneficio mayor para los organismos indígenas, investigadores y oficiales en contacto regular con países como Noruega y Canadá sería confirmar en Australia la dirección y desarrollo delas normas mundiales. Mientras tanto, el Primer Ministro ha denunciado públicamente los contactos de mi propia organización en Europa como una "maniobra".

Permítanme destacar rápidamente cuatro áreas de necesidad práctica inmediata para la cooperación entre los pueblos indígenas de nuestros tres países.

1. Las mismas compañías mineras, muy dramáticamente minas de diamante, están trabajando en la Australia aborigen, el norte de Noruega (y otras partes de Escandinavia), y en el norte de Canadá. Esas compañías no tienen reparos en compartir la experiencia, y puede ser urgente que los pueblos indígenas también lo hagan.
2. Las necesidades y peligros del manejo costero y marino provenientes de la contaminación es un tema indígena de importancia en toda Australia, especialmente en las costas tropicales y en las Islas del Estrecho Torres. A pesar de los estudios que vinculan a las necesidades australianas a la experiencia noruega y canadiense de las costas del Ártico y del Pacífico, y las recomendaciones en favor de un seminario internacional entre estos pueblos para compartir ideas, no se ha hecho ningún avance real.
3. Los acuerdos regionales sobre reivindicaciones de tierra (y mar) de Canadá son vistos cada vez más como modelos para una política indígena más amplia y para roles constitucionales para lo que los australianos llaman una "reconciliación" aborigen e isleña. En Australia tales acuerdos son muy discutidos, pero parecen convertirse en estrechos y limitados en la medida en que el debate avanza, mientra que los modelos canadienses crecen y contienen más esperanzas. Noruega, también, está discutiendo acaloradamente posibilidades para un territorio indígena en el norte. ¿Por qué no compartir ideas?
4. Noruega y Canadá enmendaron sus Constituciones nacionales en los años 80 para consagrar nuevas relaciones con los pueblos indígenas. Desde fines de los años 80 los gobiernos australianos, muchos expertos, investigaciones, grupos de interés público, y aborígenes e isleños del Estrecho Torres han recomendado el reconocimiento indígena en una Constitución enmendada. Compartir experiencias sería útil.

Todos estos puntos, y muchos otros que podríamos discutir, implican una nueva re-

lación temporaria entre los pueblos indígenas y los gobiernos de los estados nacionales. El punto ha sido bien destacado por el líder sami noruego de larga trayectoria y ahora presidente del Parlamento Sami, Ole Henrik Magga.

"La idea de un estado nacional como un grupo culturalmente homogéneo que puede asimilar y oprimir minorías no es aceptable. Significa diezmar la riqueza cultural de nuestro planeta, frente a la cual la opinión pública es cada vez más sensible. Incluso desde un punto de vista cínico, es para el mejor interés de los estados poner fin a esta política. La alternativa conducirá a importantes conflictos que sólo alterarán la misma estabilidad de los estados.

Se debe llegar a un compromiso entre los grupos culturales y el estado nacional. ...Significa que el estado se convierte en una especie de federación de grupos culturales responsables de garantizar tanto los derechos individuales como los derechos culturales colectivos. Esto implica repensar la noción del estado. En caso de conflicto, la comunidad internacional debe tener el derecho de interferir en los asuntos internos mediante un mecanismo que todavía está por crearse bajo los auspicios de las Naciones Unidas".

Similarmente, el científico político canadiense, James Tully, considerando la emergente experiencia de Canadá y otros países, ha descrito y propuesto la aceptación de la sociedad de hoy como una *Extraña Multiplicidad*. Actualmente, el Profesor Tully está viajando y hablando en Australia sobre la conciliación o la adecuación de los derechos y pueblos indígenas dentro de las estructuras políticas y administrativas del estado nacional.

La ironía hoy es que en Australia tenemos líderes políticos que hacen mucho para convertir a los aborígenes, asiáticos y otras minorías en objetivos políticos para beneficiar sus propios partidos, mientras que al mismo tiempo alegan que Australia es el país más tolerante de la tierra. Un signo positivo es las muchas personas no-indígenas y las figuras públicas que hoy hablan abiertamente sobre temas indígenas en apoyo de los aborígenes e isleños contra los gobiernos. Debemos tener la esperanza de que esa gente, con información e inspiración del exterior, pueda ayudar a Australia a detener su retroceso hacia su histórico racismo contra los aborígenes. Chile y Sudáfrica se han incorporado otra vez recientemente al mundo después de épocas de represión; Australia necesita la ayuda del mundo para evitar convertirse en un nuevo paria del Hemisferio Sur.

Para concluir, he tenido una razón muy especial para sentirme privilegiada de hablar frente a esta conferencia. Aunque mi madre es de Australia central, mi padre proviene de Noruega. Quizá les pueda decir que tengo una muy especial razón para exhortar a Noruega a continuar su trabajo excepcional en el mundo sobre temas indígenas y de derechos humanos. Han estado mostrando el camino a muchos países y gobiernos en estos asuntos durante muchos años. ¡Por favor no den marcha atrás o cambien de dirección ahora cuando las necesidades en todo el mundo son mayores que nunca!

[1] Trabajo presentado para la "Conferencia de red de contactos entre representantes de Organizaciones No-Gubernamentales (ONGs) y los Gobiernos de Australia, Canadá y Noruega, *Una efectiva política de derechos humanos*", septiembre 12-13 de 1997, Oslo, Noruega. Las referencias y notas han sido dejadas de lado en este artículo, pero pueden obtenerse en el trabajo original que puede ser adquirido en la oficina de IWGIA.

Olga Havnen *es la Coordinadora Nacional de NIWG (Grupo Nacional de Trabajo Indígena sobre el Título Nativo), PO Box, Deakin West, Act, Australia 2600. Teléfono: 61-6-234-3330/Fax 61-6-282-4109.* ❑

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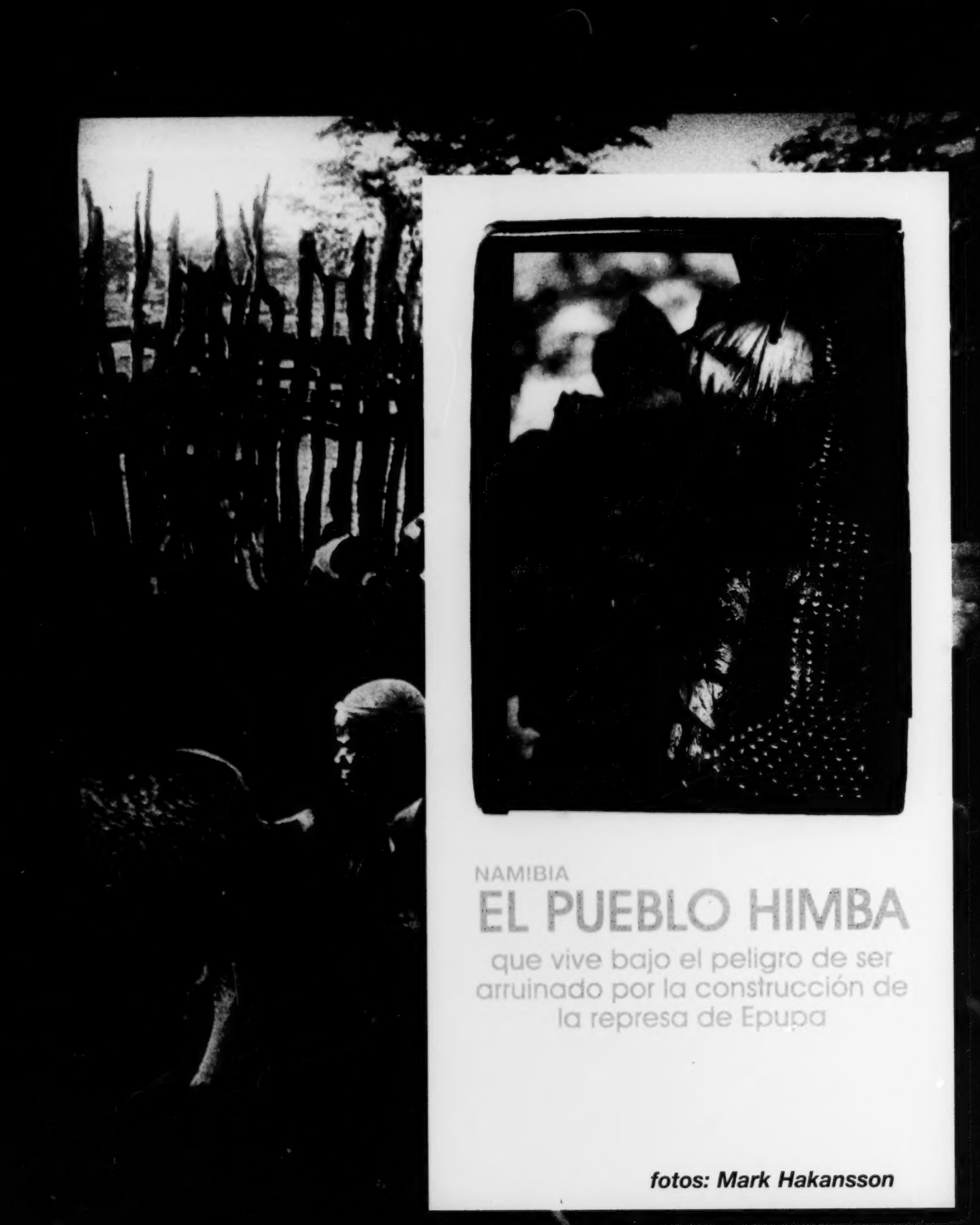

NAMIBIA

EL PUEBLO HIMBA

que vive bajo el peligro de ser arruinado por la construcción de la represa de Epupa

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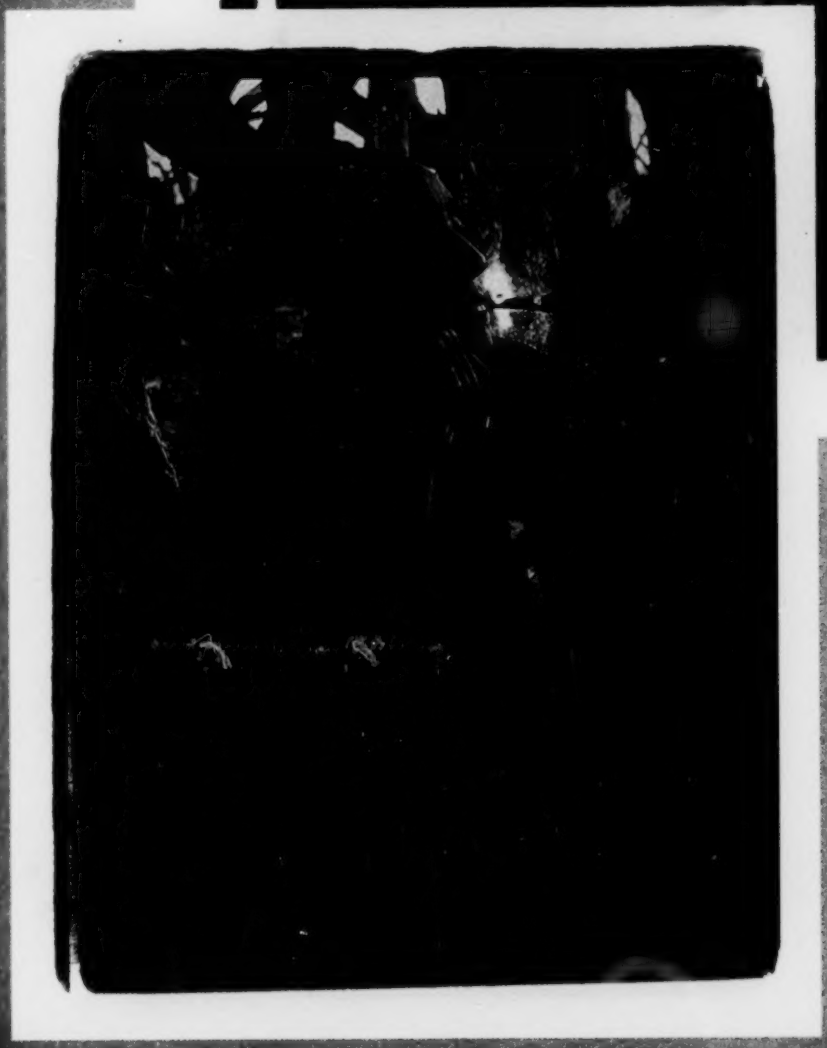

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La minería aurífera y la amenaza a los derechos de los pueblos indígenas

El caso Subanen

por Geoff Nettleton

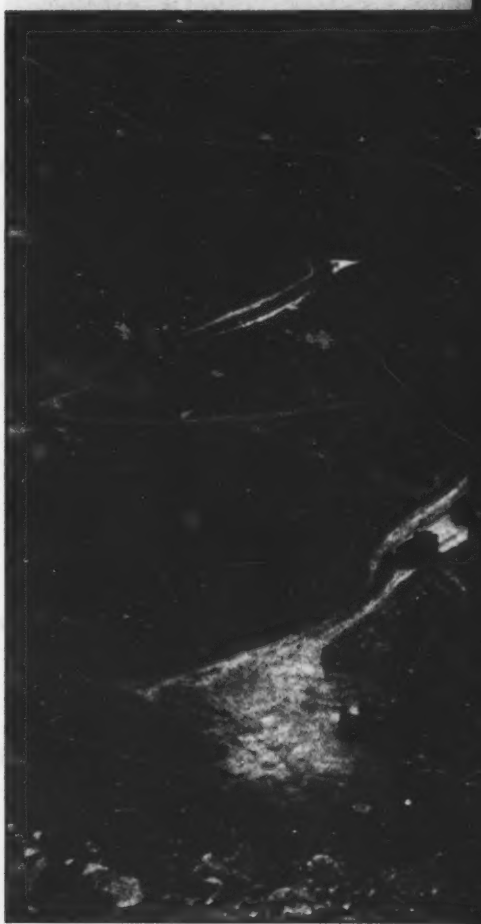
La península de Zamboanga, en Mindanao, Filipinas, es un lugar de asombrosa belleza. Desde el forestado espinazo montañoso de la península se puede contemplar ambas costas bordeadas de palmeras. En la tarde, el sol brilla en tonos de rojo y oro en las resguardadas aguas costeras. Para los *subanen*, cuya tierra ancestral es la península, no es ninguna sorpresa que Zamboanga esté especialmente bendecida con una belleza natural. Explican que les fue otorgada por Dios.

Junto con el obsequio, dicen los ancianos subanen, viene el derecho a salvaguardar el futuro de la tierra. En las Filipinas, una vez descrita por su entonces administrador colonial de los EE.UU. como «el país más minuciosamente explotado del mundo», esta es una situación en constante aumento. Gran parte de la cobertura de bosque tropical ha sido arrasada por los madereros, las aguas costeras han sufrido una sobreexplotación de la pesca y la mejor tierra agrícola ha sido plantada con miles de hectáreas de cocoteros y caucho. Sin embargo, en los años 80, grupos con base subanen y de la iglesia se combinaron para instalar un piquete y una barricada durante 5 meses en el pueblo de Midsalip, lo cual detuvo exitosamente las actividades madereras.

Los subanen ostentan una orgullosa historia independiente. La natural generosidad de su tierra les permitió crecer hasta constituir el grupo indígena más numeroso de todo el país, contando con más de 310.000 individuos.

Pero los elementos externos parecen disponer de una codicia insaciable con respecto a la riqueza natural de esta tierra. Miles de colonos cristianos han afluido a sus montañas boscosas, limpiando la vegetación para establecer granjas y pueblos, empujando a los subanen hacia las alturas de las montañas. Los subanen, término que se traduce como «el pueblo del río», es un pueblo tranquilo y explican que sus dioses aman la paz y el aislamiento. Con el arribo de los colonos, los subanen dijeron que los Espíritus no podían soportar el ruido y se retiraron aun más a lo profundo del bosque. La escalera hacia el mundo celestial constituida por la montaña sagrada de Pinukis ha sido ahora retirada.

Los madereros han despojado a los valles y muchas de las montañas de su cobertura boscosa. Los Espíritus han sido ahora expulsados lejos de los hogares de la gente. No obstante, los subanen han mantenido la fe en la defensa de sus tierras, pero han pagado un elevado precio. A partir de los años



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70 hasta el presente, tropas y sectas «religiosas» paramilitares han utilizado la violencia y la intimidación para expulsar a los subanen de sus tierras y han pavimentado el camino para el saqueo empresarial.

El Código de Minería de las Filipinas

Hoy la amenaza proviene de las compañías mineras que están alcanzando las mismas montañas. La península de Zamboanga, como tantas otras partes de las Filipinas, es rica en oro, plata y otros minerales. Las compañías mineras más grandes del mundo están compitiendo para ver cual puede ser la primera en explotar esta última riqueza natural. Una fiebre del oro empresarial está en marcha, ya que compañías como Rio Tinto, británica, y las compañías mineras más importantes del mundo, luchan por tierra en las Filipinas. Sólo Rio Tinto ha presentado solicitudes exploratorias sobre 600.000 hectáreas de tierra subanen.

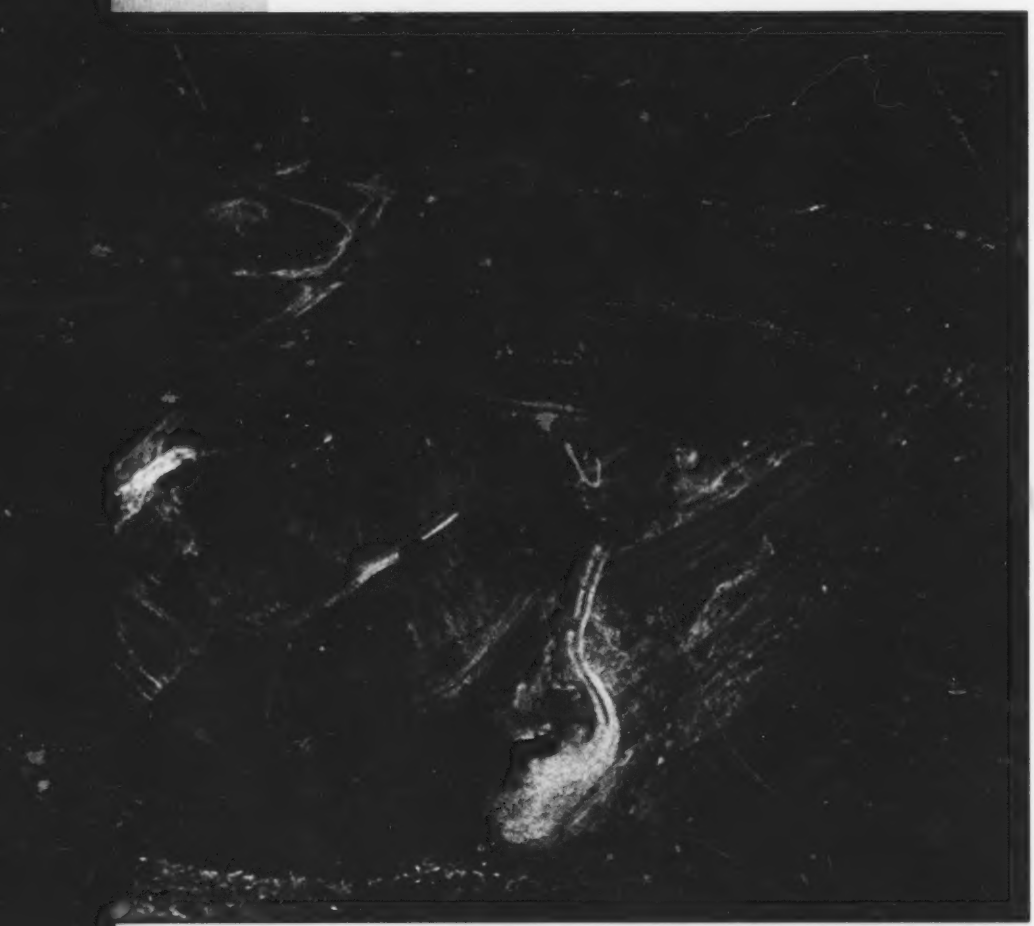
Las compañías fueron atraídas por la aprobación del nuevo Código de Minería en 1995, el cual ofrece condiciones, bajo sus Acuerdos Financieros y Técnicos-(FTAA), a las compañías extranjeras descritas como «entre las más favorables que las compañías mineras han encontradoen todo el mundo». El paquete incluye exenciones impositivas, facilidad de acceso, grandes áreas a reivindicar, 100% de propiedad foránea, arrendamientos de 50 años y repatriación de los beneficios y equipos. (Instrumento de Recursos sobre Minería CPA 1996).

Las Filipinas, en general, disponen de la segunda dotación de depósitos de oro después de Sudáfrica. Pero aunque abundante, el mineral se encuentra en depósitos extensos de bajo grado de concentración. Consecuentemente, el método más barato y por lo tanto el preferido, es la minería abierta. Se pueden obtener ganancias recuperando apenas 1 gramo de oro por tonelada de roca extraída. Las compañías planean excavar grande áreas y luego triturar la roca y extraer el oro mediante el uso de cianuro y otros materiales tóxicos para separar los minerales. Esto puede ser barato para las compañías pero conlleva potencialmente el más elevado costo para los habitantes locales quienes podrían encontrarse con sus bosques y granjas destruidos y los ríos y las aguas costeras atiborradas de sedimentos y veneno.

La respuesta a las reglamentaciones mineras liberalizadas ha sido espectacular. En dos años se han presentado más de 120 solicitudes de licencias exploratorias por una serie de compañías que figuran entre lo más selecto del mundo de la minería. En total, más de 10 millones de hectáreas, o sea 1/3 del área total del país, está ahora cubierta por las solicitudes de las compañías. La mayor parte de este tierra es también la única tierra ancestral restante de los más de 8 millones de indígenas que conforman más del 12% de la población de las Filipinas.

En 1987, se formuló una nueva Constitución de las Filipinas, la cual por primera vez otorgó el reconocimiento estatal a los derechos sobre tierras ancestrales. Pero a pesar del reconocimiento constitucional el congreso de las Filipinas ha dilatado la aprobación de cualquier legislación implementadora (1). Sin embargo, mientras que los indígenas esperaban una genuina legislación sobre derechos territoriales, otras leyes como el código de minería, la legislación de área protegida integrada, y nuevos proyectos de represas se convirtieron rápidamente en leyes para robarles lo poco de tierra que queda.

El Código de Minería de las Filipinas alega ofrecer una protección especial a los pueblos indígenas como los subanen. Establece que los pueblos indígenas deben ser consultados y deben consentir a que se realicen actividades mineras en su tierra. Pero es una negociación entre las ovejas y los lobos empresariales. Las compañías tienen la libertad de ofrecer sus propios arreglos a las comunidades locales y se adjudican la importante tarea de informar del resultado al gobierno. La maquinaria del gobierno, incluyendo la Oficina de Comunidades Culturales, las oficinas locales del Depar-



El trabajo de minería de superficie cerca de Baguio, en la Cordillera, está creando serios problemas a las comunidades indígenas, tanto de salud como de medio ambiente.
Foto: Dave Richards/RISC

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tamento del Medio Ambiente y los funcionarios municipales son todos movilizados para pacificar y ejercer presión para asegurar el acuerdo local. Para citar a una carta del gerente de Exploración en las Filipinas de la compañía Rio Tinto:

«Al abrir una tierra ancestral para operaciones mineras, el consentimiento de la Comunidad Cultural Subanen (SCC) no debería ser irrazonablemente negado. El Gobierno juega un importante papel en asegurar el consentimiento previo de SCC antes de abrir la tierra ancestral para las operaciones mineras, porque el Estado, no el SCC, es el propietario de todos los minerales del país y otros recursos naturales tal como lo consagra la Constitución filipina». Henry P. Agupitan, Gerente de Exploración de Tropical Exploration Philippines Inc. (luego cambiada a Rio Tinto Philippines) escribiendo a Horacio C. Ramos, Director del departamento de Minas y Ciencias Geológicas, fechada el 24 de julio de 1996.

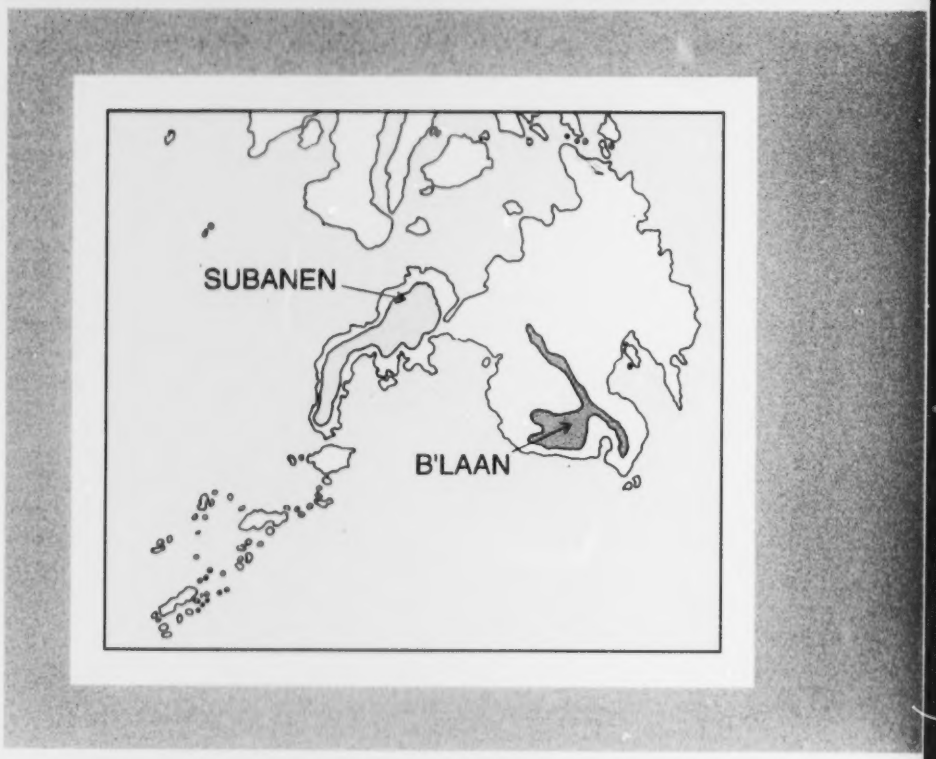
Falsificación de las compañías

En los casos en que las compañías y los funcionarios del gobierno todavía son incapaces de persuadir a las comunidades locales a rendirse, pueden recurrir, y lo hacen, a la falsificación de la opinión local. En septiembre de 1996, p. ej., Rio Tinto llamó a uña consulta con corto aviso en el pueblo de Pagadian. Más de 300 subanen se trasladaron de las montañas cercanas para asistir y expresar sus temores y su oposición a la incursión minera. Portaban pancartas como «TEPI = Total Explotation of Philippine Indigenous» (Explotación Total de los Indígenas Filipinos) y «FTAA = Foreigners Take All and Abuse» (los Extranjeros se Llevan Todo y Abusan).

A través de vinculaciones con grupos de monitoreo de la minería, como Minewatch con sede en Londres, juntaron información y pudieron cuestionar a los ejecutivos de la compañía sobre sus escandalosos antecedentes con los pueblos indígenas de Bougainville. No obstante, en un informe posterior al gobierno, el Sr. Agupitan se sintió capaz de alegar que la reunión había sido «muy exitosa». El conocimiento de esta adulteración causó que los líderes subanen del área de Midsalip decidieran que no se sentarían otra vez con la compañía:

«Nosotros, los subanen de Midsalip, nos sorprendimos al enterarnos que TEPI considera a la reunión de Pagadian como «exitosa». ...cuando se les preguntó sobre los antecedentes de la compañía relacionada RTZ-CRA sobre las cuestiones de: a) la degradación ambiental, b) la profanación de sitios sagrados, c) el desplazamiento de pueblos, d) los derechos humanos, e) las relaciones con los pueblos indígenas, etc., en Papúa Nueva Guinea, Australia, Indonesia y las Filipinas, los representantes de la compañía dieron respuestas muy insatisfactorias... Nosotros no deseamos entrar en más diálogo con TEPI. No deseamos que TEPI realice exploraciones en nuestras tierras, no deseamos que TEPI realice actividades de minería en nuestras tierras. Esperamos que nuestra posición sea comprendida. Nuestra tierra es nuestra vida, otorgada a nosotros por Dios».

Petición presentada al Presidente Fidel Ramos y firmada por subanen de Midsalip, el 20 de octubre de 1996.



A causa del temor de más falsificaciones los subanen boicotearon otra consulta que tuvo lugar el 30 de junio de 1997. Imperturbable frente a la exposición de sus pasadas falsificaciones, en esta nueva reunión el Sr. Agupitan alegó, frente a una unánime e implacable oposición a los planes de la compañía, que mientras que en torno a Pagadian parecía existir oposición, en otras áreas había más apoyo para la compañía. Citó selectivamente de una carta del Foro de Líderes Subanen (SLF) de la provincia vecina.

«No estamos en contra del desarrollo y del progreso. Sin embargo, adherimos a los principios del desarrollo sustentable como se expresa en la Agenda 21»

Esta aparente apertura con respecto a la compañía fue inquietante y sorprendente para los participantes de la consulta. Sin embargo, después de la reunión, cuando fui a visitar la oficina del SLF me entregaron un texto completo de su carta, la cual en realidad comenzaba unívocamente con:

«Nos oponemos vehementemente a la entrada de Tropical Exploration Philippines Inc. (TEPI), Toronto Ventures Inc. (TVI), ... y otras firmas mineras al dominio ancestral en nuestra provincia».

El Sr. Agupitan omitió citar este párrafo inicial.

Cuando Supervivencia Internacional enfrentó al Presidente de Rio Tinto, Robert Wilson, a este comportamiento improcedente, su preocupante respuesta fue que, por supuesto, la primera consulta había sido un éxito porque había habido una asistencia tan buena. Sobre el punto referente a la cita selectiva de SLF permaneció notoriamente en silencio.

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Tanto los mineros locales de minería a pequeña escala en Canatuan, como los indígenas subanen, se encuentran amenazados con la expulsión por la mina de oro proyectada por TVI de Canadá. Foto: Geoff Nettleton/Survival for Tribal Peoples

¿Pueden los leopardos cambiar sus manchas?

La industria minera tiene un registro notorio de abusos de los derechos territoriales indígenas. Las compañías han sido responsables en el pasado del robo y la destrucción de tierras indígenas en todos los continentes. Dos de las más notorias, Rio Tinto, la compañía minera más grande el mundo, y WMC de Australia se encuentran, sin embargo, entre aquellas que ahora alegan tener un nuevo enfoque.

WMC, antes notoria por su patrocinio de la campaña alevosa que atacaba a los derechos territoriales aborígenes es ahora promovida por el Banco Mundial como un modelo de práctica ejemplar porque ahora hace declaraciones y políticas retóricas dirigidas a los pueblos indígenas y ha empleado a antropólogos en un departamento de relaciones comunitarias.

No obstante, este cambio de retórica es típico de un nuevo estilo de relaciones públicas que se expande en gran parte de la industria. Las compañías han comenzado claramente a comprender cada vez mejor que el creciente reconocimiento de los derechos internacionales de los pueblos indígenas hace inaceptables y contraproducentes a los antiguos abusos. Aquellos que protestaban contra los proyectos mineros fueron recientemente evaluados por analistas industriales como una fuerza importante que influye sobre el valor de una inversión.

Grupos como «Gente contra Rio Tino Zinc y Subsidiarias (Partizans)» un grupo de accionistas disidente, han acosado al gigante minero con sede en Londres durante 20 años, obteniendo algunas victorias notables. Entre ellas están las campañas de desinversión dirigidas a las autoridades locales incluyendo al Consejo Mayor de Londres sobre la colaboración entre RTZ y la Sudáfrica del «apartheid». Los proyectos de RTZ como la propuesta mina de Cerro Colorado en Panamá fueron detenidos durante muchos años por campañas locales e internacionales combinadas en las cuales Supervivencia Internacional jugó un papel prominente. Desgraciadamente, hoy este proyecto constituye otra vez una amenaza activa contra los *ngobe bugle* ya que Rio Tinto no insistió mucho sobre el proyecto sino que vendió sus derechos a otra compañía.

Durante la campaña original de Cerro Colorado un ejecutivo de Rio Tinto alegó tener el poder de «aplastar a Supervivencia como a una mosca». Pero hoy la imagen pública y las palabras correctas son esenciales en un mundo donde cada vez más las compañías mineras están buscando el apoyo financiero de un mercado que incluye a pequeños inversores, una serie creciente de fondos con conciencia ética, y de las llamadas instituciones para el desarrollo, incluyendo a los gobiernos occidentales y el Banco Mundial.

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La financiación internacional de la minería

El Banco está asumiendo un creciente interés en satisfacer las necesidades de las compañías mineras mundiales. En todo el mundo, bajo el asesoramiento y la presión del Banco, las minas de propiedad estatal están siendo privatizadas. Las leyes están también siendo cambiadas para desregular y descontrolar la minería como forma de otorgar más incentivos a las compañías para que inviertan. El resultado puede ser visto en el Sudeste de Asia y en otros lados, donde un competitivo debilitamiento de las salvaguardias ambientales y sociales acoplado a un paquete de exenciones impositivas y regímenes liberalizados permiten a las compañías enfrentar entre sí a los gobiernos y lograr negocios sumamente beneficiosos para ellos pero que parecen ofrecer muy poco a sus anfitriones.

El Banco Mundial a través de su Agencia de Garantía Inversora Multilateral (MIGA) se ha convertido en un importante garante de los proyectos mineros. Los préstamos directos a la minería también se han expandido más rápidamente que cualquier otro sector de inversión bancaria durante los últimos 5 años. Además, muchos préstamos para infraestructura financiados por el Banco Mundial y otras instituciones de «Ayuda» resultan, cuando se los examina de cerca, brindar mucho beneficio a los proyectos mineros y podrían ser considerados como subsidios. En los años 80 las tierras subanen fueron el centro de un proyecto de construcción de caminos de la Ayuda Australiana. Menos de 10 años después, Rio Tinto, a través de su subsidiaria australiana, en forma aparentemente coincidente se encuentra idealmente ubicada para beneficiarse de esos caminos.

El hecho de si los cambios en las oficinas centrales del departamento de relaciones públicas se refleja en la práctica es algo que no parece soportar un examen riguroso en el contexto filipino. WMC está muy avanzada en procurar asegurarse el acuerdo de las comunidades *b'laan* para que permitan su acceso a un rico depósito de cobre. Defensores internacionales y filipinos de los derechos humanos que han visitado el área catalogan una serie de abusos.

En las Filipinas WMC está tratando de operar en Cotabato del Sur. Para facilitar su pasaje la compañía ha construido casas para *datus* (líderes tribales) cooperativos y han puesto a algunos en sus listas de pago. Mientras tanto, los líderes que se oponen a la compañía se han encontrado con que las oficinas gubernamentales les han retirado su reconocimiento. (Ref. «We feel the pain of our Mountain Report» - Misión Investigadora Internacional a Mindanao, Dic. 7-21, 1996, La Asamblea de la Iglesia Unida de Australia).

Otros informes acusan también que algunos líderes han sido llevados en viajes pagos a Manila y fueron introducidos a la vida de los clubes nocturnos. Mientras tanto, áreas resistentes a la penetración de las compañías señalan un aumento de las operaciones militares en su área, forzando su evacuación. («Displaced by Mining dispossessed by the Military - Human Rights and Australian Corporate Mining», Informe de la Misión Investigadora del pueblo B'laan de las Filipinas. Nov. 30-Dic. 5, 1996, Indigenus Pilipinas).

La interacción con la estructura social b'laan parece claramente manipuladora e irrespetuosa de las tomas de decisiones indígenas. WMC ha ubicado representantes locales claves de las comunidades afectadas en su lista de pagos inmediatamente antes de un proceso local de toma de decisiones. Si hubieran intentado esto en comunidades blancas en su sede australiana serían condenados por corrupción y soborno. La trama de la toma de decisión y solidaridad comunitaria b'laan está siendo destruida por los pagos y otras inducciones ofrecidas por la compañía sin ninguna consideración por su legalidad o moralidad.

Es sumamente difícil para los individuos pobres resistir tales sobornos o mantener una oposición unida frente a esto. Casi inevitablemente las comunidades, sostenidas en el pasado por su unidad, se encuentran divididas entre ellas mismas.

Sin embargo, en el contacto inicial la mayoría de las comunidades indígenas resisten. Después de generaciones de despojo de tierras y abusos les ha quedado muy poca tierra y ninguna otra opción que la de mantenerse firmes.

La minería y los derechos humanos

Los subanen de Canatuan, Siocon, Zamboanga del Norte, por ejemplo, han expresado repetidamente su oposición a las actividades mineras en su tierra por parte de TVI, una compañía canadiense. Timuay (líder) de la organización local subanen José Anoy declaró:

«Estoy en contra de TVI porque destruirán nuestra tierra, arrojarán desperdicios al río y espantarán a la caza con su ruido».

Osino Mato, otro líder local me dijo:

«Esta es nuestra tierra. Siempre hemos vivido aquí. No creo que el gobierno de Canadá sepa lo que está sucediendo en nuestro lugar. No creo que TVI dé un informe honesto».

Los subanen de Canatuan tienen una reivindicación de tierras ancestrales de larga data, anterior a la aparición de TVI. Están frustrados acerca de que su reivindicación no sea capaz de progresar mientras que la compañía continúa sin dificultades. Osino Mato me dijo,

«El gobierno filipino está siendo pagado para ocultar la realidad de nuestra reivindicación de tierras».

A pesar de las promesas a las comunidades indígenas contenidas en el Código de Minería, la alcaldesa local, que no es subanen, se ha adjudicado ella misma el derecho a otorgar permiso a TVI en su nombre. Vergonzosamente, este cuestionable procedimiento ha sido rápidamente aceptado por inversores potenciales. La Corporación de Desarrollo de la Mancomunidad Británica, financiada por el Gobierno Británico respondió a las protestas en torno a este proyecto señalando «un estudio independiente de impacto ambiental... incluyendo plena consideración del impacto socioeconómico» y la garantía de que «CDC... es meticulosa en la seguridad de que los derechos legítimos de los habitantes locales sean observados».

En realidad, cuando se lo examina, trasluce que CDC, que junto con el NM Rothschild Investment Bank fueron contactados para extender préstamos por más de $26 millones, no habló durante sus propias conversaciones investigativas con ningún representante de las organizaciones indígenas locales, otros grupos comunitarios locales afectados o ninguna persona fuera del gobierno o compañía local y regional.

Estando las operaciones de Canatuan más avanzadas que las de otras compañías, el tratamiento de TVI con respecto a los temas comunitarios, por lo tanto, puede ofrecer un sabor previo estremecedor de lo que podría ocurrir en otras partes.

Los encargados del vínculo comunitario de la compañía se han concentrado intensivamente en generosos esfuerzos para ganar el apoyo de los funcionarios provinciales y municipales en vez del de las más afectadas comunidades indígenas. También han desarrollado un estrecho vínculo con el ejército. La compañía emplea su propia fuerza de seguridad fuertemente armada. Esta

fuerza llamada SCAA (Auxiliares Especiales Civiles Armados) está armada y entrenada por el ejército pero es pagada y opera bajo las instrucciones de la compañía. Sus armas incluyen ametralladoras M14, otros rifles de alta potencia e, increíblemente, un cañón Howitzer de 105 mm. La consecuencia casi inevitable de este ejército privado autorizado es el abuso y la intimidación.

La compañía ha establecido 2 puestos de control en lo que antes era un camino provincial. Muchos subanen y la comunidad de mineros a pequeña escala de Canatuan superior que fue establecida hace 10 años, ahora encuentran que sus hogares se hallan dentro del complejo de la compañía.

Los puestos de control son usados para restringir el movimiento de personas y mercaderías a las comunidades locales. Un informe firmado por el Teniente Severo Cabarles de fecha de 12 de marzo de 1997 instruye a los guardias de seguridad:

a. Implementar una completa prohibición (sic) de entrada de todas las mercancías y bebidas y productos POL al complejo TVI
b. prohibir (sic) todos los suministros/mercancías para la tienda cooperativa de los mineros a pequeña escala.

De acuerdo a los residentes locales todos los bienes, incluyendo alimentos y bebidas son confiscados. La liberación de esos bienes puede sólo ser lograda pagando extorsión monetaria a los guardias. Cuando los habitantes locales respondieron transportando sus mercaderías los últimos 3 o 4 kilómetros a pie a través de sendas forestales, los guardias colocaron trampas explosivas en las sendas. Los residentes locales encontraron más de 60 «suyak» fijos en la senda y escondidos por hojas. El suyak consiste de un pequeño trozo de madera con un clavo atravesado para fijarlo al suelo. Un segundo clavo de 2 pulgadas, en este caso como dardo, se eleva de la base de madera como un pincho en la senda. Al menos un subanen que acarreaba descalzo un saco de arroz pisó uno de esos clavos y le atravesó el pie.

Cuando visité en julio a los subanen en sus hogares cerca de uno de los puestos de control fortificados, la gente temía hablar abiertamente. Finalmente sugirieron que nos trasladáramos a la comunidad de los mineros a pequeña escala para continuar nuestra discusión. Existe una razonable base para su precaución.

El 27 de abril de 1997 el Sr. Camilo Aquino de Canatuan superior fue baleado y herido por un integrante ebrio de la fuerza de seguridad. En otros incidentes armados los guardias de SCAA dispararon al aire y a los señalamientos locales para intimidar a los residentes. También fueron utilizados hombres armados para proteger a una excavadora de la compañía mientras que destruía los túneles de los mineros independientes.

Mientras que Rio Tinto expresa su apertura al diálogo con las comunidades ha tomado la precaución de invertir fuertemente en asegurarse el apoyo de la prensa local. El 28 y el 29 de junio, antes de reunirse con grupos eclesiásticos locales, hostiles, la compañía realizó un «seminario» de fin de semana. La asistencia fue restringida a los representantes de la prensa local y a los funcionarios del Departamento del Medio Ambiente. El «Seminario», que según se informó era el primero de una serie, tuvo lugar en el hotel más caro de la región. Los costos de alojamiento de P70,000 fueron pagados por Rio Tinto (según los periodistas que asistieron).

Esta inversión pagó dividendos el 30 de junio. A continuación de una reunión entre los representantes de la compañía y la iglesia local los reporteros, en la conferencia de prensa que tuvo lugar a continuación, adoptaron una línea fuertemente hostil de cuestionamiento a los opositores del proyecto.

Durante la reunión del 30 de junio los opositores locales del proyecto preguntaron al Profesor Glyn Cochrane de la compañía qué indicadores aceptarían como prueba de la oposición local y como base para su retirada. El Profesor Cochrane reconoció la fuerza de la oposición pero a pesar de todo no respondió directamente a la pregunta. La respuesta, dijo, estaba en manos del Consejo Directivo de Rio Tinto, en Londres. Este año Rio Tinto anunció una nueva política de relaciones comunitarias de la compañía. Pone énfasis en el deseo de la compañía de ser un «buen vecino» y «comprender» a la gente cuando opere. Sin embargo, no reconoce ni sugiere en ningún lado que una comunidad tenga el derecho de decir no a los avances de Rio Tinto.

La frustración está inevitablemente en aumento. Los subanen se niegan a reunirse con Rio Tinto. En Bayog, donde Rio Tinto ha llegado a un acuerdo con una firma minera local para acelerar su exploración, los habitantes locales retiraron las marcas de medición. En una reunión en Bayog, el 8 de julio de 1997, los líderes subanen expresaron su disposición a luchar y a morir por la tierra que les resta. En toda Filipinas, las comunidades están temerosas de los impactos de la minería y dudosas sobre la protección que recibirán de la ley. En Nueva Vizcaya un ingeniero minero que trabajaba para Climax Mining fue baleado y muerto.

La situación tiene que ser también frustrante para las compañías. En mayo de 1996 una mina en la isla de Marinduque, controlada por la compañía canadiense Placer Dome, derramó millones de toneladas de cemento como sedimentos a un sistema fluvial local. La alarma y las protestas que siguieron forzaron al Departamento del Medio Ambiente a detener el procesamiento de todas las solicitudes.

Los pueblos indígenas exigen que el reconocimiento final por parte del estado de sus reivindicaciones de derechos territoriales debe preceder a cualquier proyecto importante en sus tierras.

La idea actual de que las compañías pueden permitirse la libertad unilateral de declarar el nivel de apoyo local u oposición es claramente inaceptable y casi condenada a conducir al fraude y al conflicto cuando las ganancias de la minería aurífera a gran escala estén en juego.

Es claro que el cambio en la retórica de las compañías como WMC y Rio Tinto señala un cambio en el equilibrio de fuerzas (y puede indicar cambios de actitud dentro de la industria). Desgraciadamente, hasta ahora la retórica de las oficinas centrales no se traslucе suficientemente en las operaciones de las compañías en el campo. Como la fiebre de oro descrita aquí en el caso de las Filipinas es en realidad parte de un fenómeno mundial, las comunidades amenazadas tienen una urgente necesidad de información sobre las operaciones de las compañías y apoyo paradenunciar la diferencia entre la política declarada y la práctica de las compañías, para poder defender sus tierras en la economía mundial, cada vez más globalizada y liberalizada.

Nota

1 Una ley de tierra ancestral fue recientemente aprobada como ley. Es demasiado temprano para juzgar cómo puede ser implementada. Sin embargo, algunos grupos indígenas han criticado la redacción y han expresado una falta de confianza, particularmente en relación a los derechos minerales y el desarrollo minero.

Geoff Nettleton *es británico y vive en Inglaterra. Es coordinador de «Philippine Indigenous Peoples Links», una organización de apoyo a los indígenas y consultora de la organización de derechos humanos Supervivencia Internacional. Trabajó en apoyo de los derechos de los pueblos indígenas durante más de 20 años y vivió en las Filipinas más de 7 años. Visitó Zamboanga en junio y julio de 1997.* ❑

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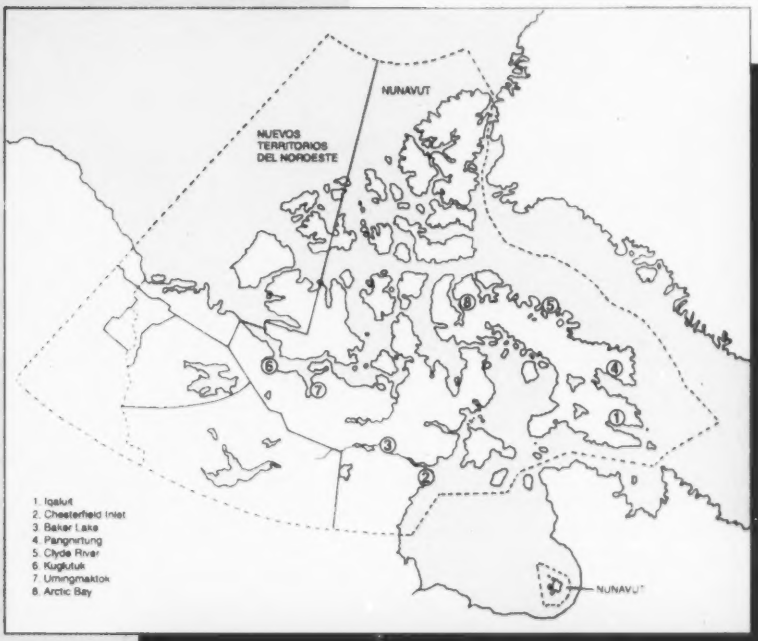
CANADA

¿Equiparación del género en Nunavut?

El 26 de mayo de este año, los habitantes de la próxima región autónoma, Nunavut, votaron sobre algo calificado como la equiparación electoral ("equiparación de género"), entre los hombres y las mujeres. A los votantes se les pidió que votaran por sí o por no en cuanto a sí "¿la primera Asamblea Legislativa de Nunavut debería tener igual número de hombres y mujeres miembros de la Asamblea Legislativa, con una representación de un hombre y una mujer para cada distrito electoral? _ Sí, _ No."

Si la propuesta fuera aprobada, de cada uno de los propuestos 10 u 11 distritos electorales se elegiría una mujer de una lista especial femenina y un hombre de una lista especial masculina. Cada elector, independientemente del sexo, debería entonces marcar dos cruces,una en la lista femenina y otra en la lista con candidatos masculinos.



por Jens Dahl

La historia tuvo un pronto final, ya que el plebiscito del 26 de mayo rechazó la propuesta. El 57% de los votantes de Nunavut votó en contra; sólo el 43% aprobó la moción. En total se presentó el 39% de los electores a las urnas de votación.

La votación y su resultado son, sin embargo, interesantes en una serie de puntos.

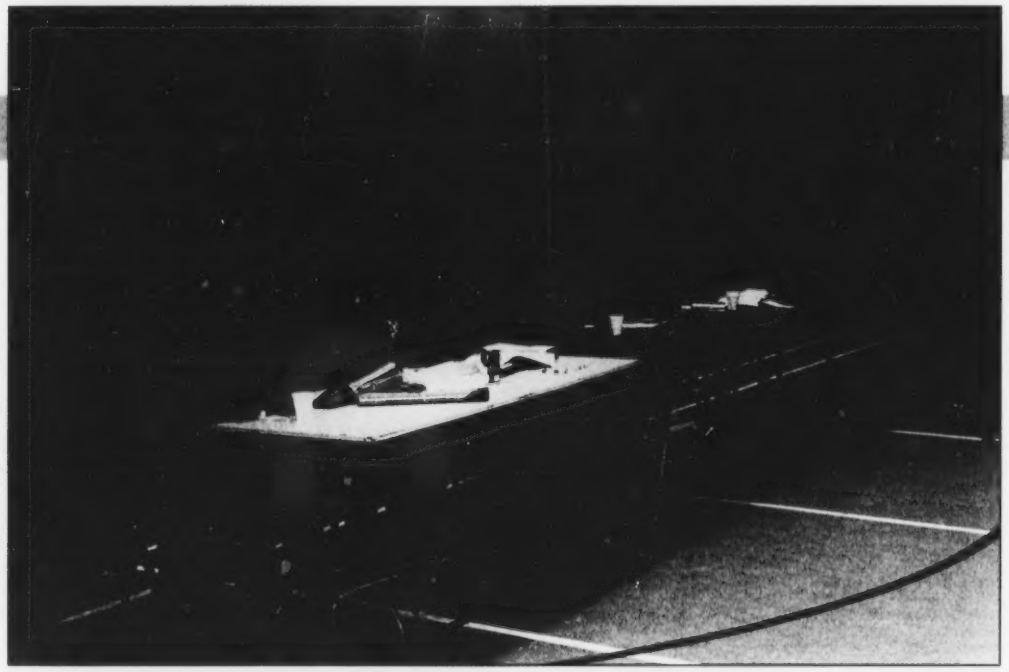
¿Cómo es posible, que una propuesta tan radical haya llegado a un plebiscito? Incluso en el ámbito mundial se trataba de una propuesta única.

El debate público antes de la votación y el juicio de los votantes se centró en una pregunta absolutamente fundamental - la relación culturalmente establecida entre hombre y mujer en una sociedad *inuita* moderna.

Antecedentes

En 1992 el gobierno federal canadiense asumió un doble acuerdo con los inuitas de los Territorios del Noroeste. Los casi 20.000 inuitas constituyen la mayoría de la población (casi el 85%) del enorme rincón nororiental de Canadá, Nunavut, -el vecino más próximo de Canadá hacia el oeste- y desde mediados de los años 70 habían exigido la autonomía. Con los acuerdos de 1992, los inuitas se aseguraron el derecho de propiedad de aproximadamente el 18% de Nunavut (del cual cerca del 10% con pleno derecho a los recursos del subsuelo) y con derechos especiales a la caza y a la pesca en todo Nunavut. Además, se aseguraron en su acuerdo de reivindicación de tierras con el gobierno canadiense, derechos especiales en relación con el aprovechamiento de recursos no renovables en todo Nunavut. Sólo los inuitas están comprendidos en este acuerdo territorial.

Al acuerdo de tierras se agregó un acuerdo político, según el cual en 1999 se establece una región autónoma, Nunavut. A si-



El encuentro en Pangnirtung discutiendo la "equiparación de género" entre hombres y mujeres en Nunavut. Foto: Jens Dahl

militud con el gobierno autónomo groenlandés, se trata del establecimiento de un territorio donde todos los habitantes, independientemente de la pertenencia étnica, disponen de los mismos derechos políticos y sociales.

Los inuitas habían puesto como condición para llegar a un acuerdo de tierras la exigencia del establecimiento de Nunavut - sabiendo que constituyen la absoluta mayoría de la población.

Por delante quedaba el gran trabajo de establecer las instituciones de Nunavut. Los inuitas habían negociado a través de la Federación Tunngavik de Nunavut. Después del acuerdo de tierras, ésta cambió su nombre a Nunavut Tunngavik Inc. (NTI). Además de representar a los inuitas NTI administrará la tierra propiedad de los inuitas. Además, NTI logró una cooperación tripartita con el gobierno federal y el gobierno de los Territorios del Noroeste, en Yellowknife. Juntos establecieron una institución especial, la Comisión de Implementación de Nunavut (NIC), para asesorar a las tres partes constitutivas y presentar propuestas para la creación de las muchas nuevas instituciones de Nunavut. Algunas de las grandes cuestiones son el problema del empleo de los inuitas, la creación de una economía controlada por los inuitas, el traslado de empleados de Yellowknife a Nunavut, etc. Además, NIC decretó dos veces plebiscitos para consultar con los habitantes sobre cuestiones de importancia central para Nunavut. En ambas oportunidades se trataba también de cuestiones muy polémicas. La primera vez fue para decidir sobre una nueva capital para Nunavut. Los electores decidieron que Iqaluit será la capital por ser la mayor ciudad de Nunavut.

Entre las cuestiones sobre las que NIC tenía que tomar posición estaba, además, la distribución de Nunavut en distritos electorales así como también propuestas para el sistema electoral (elección proporcional, distritos individuales, lista de electores, etc.). En diciembre de 1994 NIC planteó una propuesta de discusión sobre la "equiparación de género", y dos años más tarde NIC estaba en condiciones de presentar una propuesta concreta al gobierno federal, al gobierno territorial y a Nunavut Tunngavik Inc. La propuesta fue apoyada por una serie de organizaciones propias inuitas y también porel ministro federal para asuntos indígenas. Por el contrario, el gobierno de los Territorios del Noroeste se oponía a la propuesta y el grupo de Nunavut en el parlamento local en Yellowknife tampoco pudo apoyar la propuesta. La oposición fue liderada en este caso por Manitok Thomsen, que es Ministro de Asuntos Municipales y Comunitarios y del Directorado de la Mujer.

La campaña

Estamos sentados en la sala de gimnasia de la escuela. Hay unos 35 oyentes. La mayoría tienen puestos los abrigos acolchados, aunque en realidad no está especialmente frío en la sala. En un par de bancos a lo largo de los costados están sentadas algunas mujeres con niños en *amaat*, la forma especial de *amoraq*, cuya gorra tiene forma de una gran bolsa. En uno de los lados hay una mesa con café y distintas formas de repostería casera. En un par de mesas frente a nosotros, los oyentes, están sentados los disertantes de la noche.

Estamos en Pangnirtung, una pequeña ciudad o pueblo, comunidad, en la Isla de Baffin, Canadá. Más precisamente en un pequeño fiordo lateral bien en el interior del Estrecho de Cumberland en el lado oriental de la Isla de Baffin. Estamos a fin del mes de mayo, pero el fiordo está toda-

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vía helado, y los cazadores todavía pueden trasladarse con motos de nieve sobre el hielo.

La reunión en la escuela es convocada en ocasión del próximo plebiscito sobre si el nuevo Nunavut autónomo tendrá una asamblea legislativa constituida por igual cantidad de hombres y mujeres.

Los tres invitados en el podio representan a las organizaciones nacionales inuitas, de las cuales proviene la proposición sobre la igualdad de representación de hombres y mujeres. Son bienvenidos por un hombre local, quien solicita a uno de los presentes a acercarse al podio para iniciar la reunión con una oración. Después de la oración les llega el turno a los tres presentadores. Después de cortas presentaciones hay tiempo a disposición para preguntas. La reunión transcurre en *inuktitut*, pero con traducción simultánea en inglés para los oyentes que no hablan inuktitut.

Desde la sala, son los hombres los que abren la lista de oradores. El primero lamenta que hayan asistido tan pocos, pero con el buen tiempo reinante, la mayoría se fue de caza. No están entusiasmados con la propuesta. Los hombres son los señores de la casa, y traería sólo problemas si las mujeres se van en vez de quedarse en la casa con los niños. Además, dicen, "todos nosotros los canadienses somos iguales y podemos ser sacerdotes y presidentes - también las mujeres", por lo tanto la propuesta es superflua.

Desde el podio, el contra argumento es que la práctica demuestra que las mujeres no tienen las mismas posibilidades que los hombres. En el futuro Nunavut es necesario probar algo nuevo para solucionar muchos problemas sociales importantes. Y aquí es importante que las mujeres y los hombres trabajen juntos. "El existente parlamento de los Territorios del Noroeste es algo que se nos impuso, por eso esta es nuestra propuesta sobre cómo queremos organizarnos", dicen.

El debate prosigue. De hecho sólo los hombres toman la palabra. Después de más de una hora y media la reunión está por llegar a su fin. Entonces una de las mujeres toma la palabra. "Es necesario que probemos algo nuevo", dice ella. "Con todas las malas noticias que nos llegan por la radio todos los días, mi deseo es que suceda algo bueno, y una representación igual de mujeres y hombres en la asamblea legislativa de Nunavut es un buen punto de comienzo". El podio no llega a contestar porque otra mujer de la sala la apoya, y apenas termina su alocución otra mujer interviene.

La reunión podría muy bien dejar la impresión de que sólo los hombres estaban en contra de la propuesta. Durante los días previos, la radio y la televisión trasmitieron entrevistas con muchas mujeres que, exactamente con los mismos argumentos que los hombres de Pangnirtung, se expresaron en contra de la propuesta: todos los canadienses tienen los mismos derechos, tanto hombres como mujeres, sólo se trata de que los mejor calificados aprovechen la oportunidad. Simplemente la propuesta no se necesita, dicen los opositores. Los simpatizantes hacen notar que Nunavut ha beneficiado fundamentalmente a los hombres con la propuesta sobre un apoyo económico especial para los cazadores.

Un tema recurrente es la comparación entre el hogar y la próxima asamblea legislativa, "la casa de los comunes". Los simpatizantes de la propuesta opinan que la asamblea legislativa tiene que estar caracterizada por la igualdad entre el hombre y la mujer, algo que caracteriza al hogar. Un oyente expresó en la radio que "si la asamblea legislativa va a ser un hogar, debe haber espacio para una figura materna y una figura paterna". Los roles de los hombres y de las mujeres son diferentes, pero se suplen y son iguales de valiosos. Así tiene que ser también en la asamblea legislativa - hay cosas en que las mujeres son mejores y por lo tanto se debe asegurar su representación. De la misma manera, partiendo de la división de roles en el hogar, los opositores opinan que las mujeres deben quedarse en casa.

Otro tema es el estatus de la propuesta en relación con la concepción cristiana de la relación entre el hombre y la mujer. En la reunión de Pangnirtung uno de los hombres presentes intenta argumentar que los hombres son más capaces que las mujeres. Sin embargo, modifica su posición cuando desde el podio se escucha que Dios creó al hombre y a la mujer iguales. En forma opuesta, se habían escuchado en la radio algunos días antes argumentos que utilizaban a la religión en contra de la propuesta.

Un tercer tema es la discriminación. Especialmente las mujeres plantearon esta cuestión. La equiparación electoral discriminaría a la mujer, porque no podrían competir con los hombres (el argumento contrario, técnicamente correcto, de que la propuesta también discriminaría a los hombres, no lo he oído o visto presentar), y si los dos mejores candidatos en un distrito fueran mujeres, sólo una sería electa.

En la reunión de Pangnirtung se repitieron muchos de los temas que habían sido presentados en la radio y la televisión en las semanas previas. Uno de los temas que de diferentes formas habían sido tratados desde distintos ángulos era, si la equiparación electoral entre el hombre y la mujer reflejaba o estaba de acuerdo con las ideas y valores inuitas tradicionales. ¿Y qué es tradicional y qué no lo es? Las consecuencias de que las mujeres y los hombres estén representados equitativamente en la asamblea legislativa ¿están de acuerdo con los valores tradicionales inuitas - o quiebran por el contrario las viejas costumbres? ¿Representa la propuesta un intento de retornar a ideales inuitas tradicionalmente valorados o es un producto de los tiempos modernos? En este contexto surgió muchas veces la pregunta de si la propuesta presentada provenía de los mismos inuitas, o era otra vez una propuesta del sur. Esto último tenía sin lugar a dudas opositores. Teniendo como punto de partida la situación de que el sistema existente discrimina realmente a las mujeres, los simpatizantes consideraban casi como indiferente de donde provenía la propuesta; para ellos lo determinante era que los inuitas buscaran sus propias vías para solucionar cuestiones fundamentales. "La equiparación de género está hecha en Nunavut".

Después de la reunión de Pangnirtung los invitados vuelan de vuelta a Iqaluit, la capital venidera de Nunavut, que está a poco más de una hora de vuelo al sur de Pangnirtung.

La votación

En Iqaluit, el 26 de mayo, no había mucho que revelara exteriormente que tenía lugar un plebiscito bastante decisivo. Pero los acontecimientos fueron bien cubiertos por los medios de difusión del norte, tanto la radio como la televisión. La cobertura nacional fue mucho más limitada y nada en comparación con la cobertura de la elección parlamentaria canadiense, que tendría lugar una semana después.

Debido a la diferencia horaria entre el este y el oeste de Nunavut, la votación terminó dos horas más tarde en el extremo oeste que en Iqaluit.

Un puñado de personas estaban reunidas en los locales de Nunavut Tunngavik Inc., entre ellas los líderes que en las semanas previas a la votación habían otorgado gran prestigio a la propuesta. Recién después de las nueve llegó el primer resultado a través de la radio. Era de Artctic Bay/ Nanisivik, en la Isla de Baffin, y mostraba una pequeña mayoría en contra. Poco después llegó el resultado de la cárcel cercana (hombres) y reveló una amplia mayoría en

favor de la propuesta, lo cual dio lugar a muchos comentarios.

A juzgar por los resultados de las poblaciones de la región de la Isla de Baffin, quedó claro en seguida que sería difícil lograr una mayoría para la propuesta. Y esta tendencia fue más y más clara más tarde en la noche, cuando llegaron los resultados de la región oriental (Nunavut tiene tres regiones, Isla de Baffin, Kivalliq (Keewatin) y la región norte, Kitikmeot). En Kivalliq había una mayoría aplastante en contra de la propuesta, lo cual hizo que cualquier esperanza de que fuera aprobada era irreal. En Chesterfield Inlet votaron 117 contra la propuesta - sólo 9 votaron "sí"; Repulse Bay tuvo 143 "no" y sólo 16 apoyaron la propuesta; la ciudad mayor de la región Rankin Inlet, mostró 305 en contra y 112 a favor.

Ahora quedaba claro que la propuesta había sido rechazada, si bien la pequeña región del norte en su conjunto, Kitikmeot, como la única de las tres regiones, la apoyaba.

En la medida en que la noche avanzaba faltaban sólo los votos de la ciudad mayor, Iqaluit. Sólo una enorme participación y una mayoría aplastante podrían cambiar el panorama en favor del "sí". El resultado llegó recién alrededor de las once y media, y para ese entonces muchos habían abandonado los locales de Nunavut Tunngavik. Los ánimos en el local no eran precisamente festivos. Uno de los principales políticos miraba un partido de hockey en la televisión, quizá a causa de la frustración, y se negó en ese momento a pronunciarse frente a la radio y la televisión.

Cinco de los seis poblados de Kitikmeot habían votado "sí", pero el porcentaje de votación era muy bajo. En la región mayor, Baffin, el número de votantes fue tres veces superior al de Kitikmeot y el doble de Kivalliq. La participación en la votación fue de 40,5% en Baffin, 38,4% en Kivalliq y 32,0% en Kitikmeot. De todos los poblados, Umingmaktok (Kitikmeot) tuvo la mayor participación (76%), pero aquí no había más de 50 votantes legitimados. En Chesterfield Inlet (Kivalliq) con 169 votantes, votó el 75%. Umingmaktok votó "sí".

Región Comunidad	Total de votantes	Votos emitidos	Sí	No	% Sí	% No	Participación electoral
Nunavut	11,943	4,640	1,978	2,662	42.6%	57.4%	38.9%
Baffin	6,146	2,491	1,149	1,342	46.1%	53.9%	40.5%
Keewatin	3,486	1,338	361	977	27.0%	73.0%	38.4%
Kitikmeot	2,311	739	420	319	56.8%	43.2%	32.0%
Arctic Bay / Nan	444	134	64	70	47.8%	52.2%	30.2%
Broughton Island	304	151	83	68	55.0%	45.0%	49.7%
Cape Dorset	579	170	90	80	52.9%	47.1%	29.4%
Clyde River	341	87	40	47	46.0%	54.0%	25.5%
Grise Fiord	82	45	17	28	37.8%	62.2%	54.9%
Hall Beach	289	88	33	55	37.5%	62.5%	30.4%
Igloolik	559	281	119	162	42.3%	57.7%	50.3%
Iqaluit	1,741	715	387	328	54.1%	45.9%	41.1%
Kimmirut	227	121	49	72	40.5%	59.5%	53.3%
Pangnirtung	610	291	122	169	41.9%	58.1%	47.7%
Pond Inlet	530	209	68	141	32.5%	67.5%	39.4%
Resolute Bay	110	53	22	31	41.5%	58.5%	48.2%
Sanikiluaq	330	146	55	91	37.7%	62.3%	44.2%
Arviat	789	273	81	192	29.7%	70.3%	34.6%
Baker Lake	741	207	94	113	45.4%	54.6%	27.9%
Chesterfield Inlet	169	126	9	117	7.1%	92.9%	74.6%
Coral Harbour	313	104	25	79	24.0%	76.0%	33.2%
Rankin Inlet	1,065	417	112	305	26.9%	73.1%	39.2%
Repulse Bay	276	159	16	143	10.1%	89.9%	57.6%
Whale Cove	133	52	24	28	46.2%	53.8%	39.1%
Cambridge Bay	652	192	105	87	54.7%	45.3%	29.4%
Gjoa Haven	396	143	90	53	62.9%	37.1%	36.1%
Kugluktuk	635	134	68	66	50.7%	49.3%	21.1%
Pelly Bay	225	80	32	48	40.0%	60.0%	35.6%
Taloyoak	353	152	93	59	61.2%	38.8%	43.1%
Umingmaktok / Bl	50	38	32	6	84.2%	15.8%	76.0%
Inmates	142	72	48	24	66.7%	33.3%	50.7%

Chesterfield tenía una mayoría aplastante por el "no".

El porcentaje más bajo de votación estuvo en Kuglutuk (Kitikmeot) con el 21% y 635 votantes, Clyde River (Baffin) con el 26% y 341 votantes y Baker Lake (Kovalliq) con 28% y 741 votantes. El único de estos poblados que votó "sí" fue Kuglutuk. Probablemente se puedan dar muchas explicaciones por el bajo porcentaje de votación. Tanto los simpatizantes como los opositores expresaron que el mes de mayo era un período en que muchas personas se van de caza y de pesca. Otra explicación es simplemente la falta de interés por la propuesta.

Lo que quedaba era casi nada más que constatar que la propuesta había sido aprobada - y rechazada. Las reacciones sobre el resultado de la votación en los días posteriores fueron naturalmente diferentes. Los líderes inuitas habían sufrido una derrota considerable - por otro lado les fue infligida por su propia gente. Nada indica efectivamente que la población inuita fuera simpatizante y los blancos canadienses opositores. Para eso son demasiado pocos, y Iqaluit, con sus muchos habitantes blancos votó en realidad "sí", mientras que muchos poblados en los cuales había muy pocos blancos tenían una gran mayoría contra la propuesta. Por ejemplo, en Chesterfield, donde el 94% de la población es inuita, el 93% votó en contra de la propuesta.

El conocido periódico de Nunavut, Nunatsiaq News, tenía en su editorial después de la votación esta reacción, un tanto ácida y frustrada:

"Comparadas con la mayoría de los hombres de Nunavut, las mujeres de aquí son más ilustradas, tienen mejor cabeza y son más capaces...

Un Nunavut autónomo necesitará líderes que sepan leer, escribir, contar y computar en nuestras dos lenguas principales, y líderes que sepan presentarse a trabajar sin una 'resaca'.

Pero observen quien aparece la próxima vez que su asociación regional Inuita o consejo comunitario celebre una reunión. Entonces, cuenten la cantidad de hombres alrededor de esa mesa que posean esas cualidades.

Luego, cuenten la cantidad de mujeres que poseen esas cualidades. Observen quienes escriben a máquina, interpretan, traducen, toman notas, llevan la contabilidad y responden el teléfono. Observen quién está haciendo el trabajo, que necesita cerebro para hacerlo.

Si hacen eso, comprenderán lo que la gente de Nunavut perdió realmente en la votación del lunes. Comprenderán que la propuesta de la equiparación de género no fue creada para el beneficio de la mujer - fue creada para el beneficio de todos". (Nunatsiaq News, 30 de mayo de 1997).

Explicación

La mayoría de los líderes políticos inuitas estaba en favor de la propuesta sobre la equiparación electoral de los hombres y las mujeres. Algunos habían sido inicialmente opositores, pero durante los dos años en que circuló la propuesta se dio en muchos de ellos un cambio de posición. Si se toma como punto de partida, puede haber razones para preguntarse por qué la mayoría de la población votó, a pesar de todo, en contra. Mucho puede ser sólo suposición, pero a pesar de todo, quizá se pueda ver en el resultado algo sobre la cultura inuita de hoy.

El resultado de la votación mostró algunas diferencias regionales, ya que Kivalliq casi unánimemente votó en contra. Una explicación podría simplemente ser que el principal opositor, Manitok Thomsen, es originario de allí. También puede ser que la dirección inuita estuviera asociada con la región de Baffin, lo cual no es impensable, aunque la mayoría de los líderes políticos vienen de Kivalliq (como siempre lo han hecho). El resultado de la votación puede entonces interpretarse como una expresión de una cierta rivalidad entre las regiones, pero también como una oposición al poder que tienen los líderes políticos. Una cierta frustración sobre que Iqaluit será la capital de Nunavut (y no Rankin Inlet en Kivalliq) puede haber también jugado su parte. Similarmente puede haber sucedido que muchos de los empleos que el nuevo desarrollo ha creado puedan sentirse como monopolizados por una pequeña élite vinculada a las principales organizaciones inuitas, y la mayoría de ellas tienen todavía su sede en Iqaluit. No se debe olvidar en ese contexto que la mayoría de las personas no han recibido ninguna mejora de los preparativos para el establecimiento de Nunavut - después de décadas de discusión y promesas, todavía esperan. Pero en general, el resultado de la votación atestigua más sobre un Nunavut homogéneo que un Nunavut dividido en regiones.

Los representantes de Nunavut Tunngavik Inc., la Comisión de Implementación de Nunavut y Pauktuutit (la organización de las mujeres inuitas) llevaron adelante una campaña durante las semanas previas a la votación, en la cual visitaron una serie de poblaciones en Nunavut. Si se observa el resultado de la votación no hay nada que indique que esto haya tenido un resultado positivo. Más bien al contrario. Esto puede probablemente interpretarse en el sentido de que la gente se sintió algo intimidada por una campaña unilateral. ¿Por qué no trajeron también representantes del "no"? ¿Quién ha pagado su campaña? Preguntas como éstas fueron frecuentemente repetidas en las reuniones y los medios de difusión.

Quizá muchos reaccionaron contra la sensación de ser obligados a algo - y por lo tanto se retiraron y votaron "no". Los simpatizantes hablaron de conservadurismo después de la votación. Quizá se debería interpretar en cambio como una expresión de que uno retira su apoyo a un político, no por desacuerdo, sino simplemente porque el poder de él o ella transpuso los límites que se consideran legítimos.

Ambas partes legitimaron sus posiciones apelando a los valores e ideales inuitas. A la luz de esto, debe decirse que el resultado es una expresión de una amplitud positiva en la moderna cultura inuita, porque es prácticamente indiferente, quién tiene razón. Ambas partes apelaron igualmente a la coherencia de sus posiciones con la modernidad, como por ejemplo, los derechos humanos.

La propuesta sobre la equiparación electoral de hombres y mujeres debe haber sido interpretada por muchos hombres como una amenaza contra su posición. El hombre es tradicionalmente el cazador, que llega al hogar con la presa; él es quien consigue alimentos para la familia. Su estatus reside tradicionalmente en su papel como el sustentador de la familia. Con la caza él se va por el mundo y regresa al hogar no sólo con alimentos, sino también con experiencias, informaciones y con nuevos conocimientos sobre otros seres humanos y sobre la naturaleza. Es él quien transmite su conocimiento - son las mujeres quienes escuchan. Las últimas décadas han quebrado este monopolio de muchas formas. Las mujeres se han convertido en trabajadoras asalariadas, muchas han obtenido una educación que les otorga posiciones superiores con relación a los hombres, y generalmente son los hombres quienes están desempleados y deben quedarse en casa.

Este desarrollo ha sido psicológicamente bastante difícil para muchos hombres. Arriba de esto, llega una propuesta, que se considera como un intento de dar a las mujeres una situación política especial (a

costa de los hombres, porque no se interpreta como un intento para asegurar a los hombres una situación igual a la de las mujeres). Una situación que las convertirá en proveedoras de ingreso, información y poder. Se puede siempre sostener, que en realidad se trata nada más que de apenas una decena de mujeres. Un argumento cuantitativo de ese tipo es bastante poco importante, si el sentido simbólico de la propuesta es lo decisivo en la toma de posición de la gente. Se puede decir, que muchos hombres quizá consideraron la propuesta como la esencia de ese proceso que les ha privado de su papel como sustentadores del hogar.

Cuán difícil es interpretar el resultado desde el punto de vista del comportamiento de votantes en los grupos sociales tradicionales (en un sentido euro-americano) se hizo visible en un programa de televisión con hombres jóvenes. Quizá se creyera que los jóvenes estarían más abiertos a la propuesta que los mayores, pero a juzgar por este programa había en los jóvenes tanto inuitas como no-inuitas una marcada oposición contra la propuesta.

En varias oportunidades se mencionó que la propuesta sobre la equiparación electoral entre hombres y mujeres no provino de los mismos inuitas. Sin embargo, no hay nada que indique que esto haya sido un factor especialmente determinante para los opositores. Cuando la propuesta, no obstante, fue aceptada por amplios círculos es por el contrario expresión de que muchos deben haber sentido que estaba de acuerdo con valores culturales. O quizá de acuerdo con un gran deseo de que Nunavut funcione de una manera que sea distinta del modelo de sociedad euro-canadiense que durante décadas ha sido impuesto a la población inuita.

En todo caso, el concepto del autor de este artículo, es que si la propuesta hubiera sido aceptada hubiera significado que todo el mundo habría abierto sus ojos frente a los acontecimientos de Nunavut. Pero también, no menos importante: hubiera contribuido a que los mismos inuitas se fijaran en la posibilidad que dice que en realidad se pueden hacer las cosas de otra manera que aquella que nos fue impuesta desde afuera.

Sin embargo, el hecho es que la propuesta fue rechazada en el plebiscito, y es muy improbable que sea vuelta a presentar. La gran oposición de las mujeres a la propuesta debe interpretarse como expresión de que el deseo de una familia fuerte representa un papel fundamental para los inuitas. Cualquier iniciativa que pueda ser interpretada como una amenaza contra la familia, será rechazada por muchos, por miedo (aún) a más problemas sociales. Independientemente de quien tenga la mejor solución, existe en Nunavut un gran deseo ideológico de reforzar las relaciones familiares cercanas - apesar de que mucho en el desarrollo general señala en sentido contrario. O como muchos expresaron antes de la votación, la equiparación de los hombres y las mujeres primero tendría que suceder en el hogar antes de ser introducida en otros ámbitos.

FE DE ERRATAS

En el último número de *Asuntos Indígenas*, el autor del artículo bajo Noticias Breves: *"El legado del colonialismo francés y una nueva iniciativa de los maohi"*, Martine Pétrod, figuró bajo el nombre equivocado de Martine Hiti Tav. IWGIA lamenta este error.

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PAÍS SAAMI

Derechos territoriales, derechos lingüísticos y autonomía cultural para el pueblo saami

por el parlamento saami de Finlandia

La situación de los *saamis* finlandeses ha mejorado considerablemente de diversas maneras en los últimos años. Sin embargo, desde comienzos de 1995, El Parlamento Saami finlandés ha observado con creciente preocupación que, al mismo tiempo que Finlandia asegura o intenta asegurar una posición y derechos especiales para la población saami en su legislación, en la administración y en la implementación de tratados, están aumentando en los territorios saami los actos y actividades organizadas contra los saamis. Algunos miembros de la población mayoritaria -y algunos municipios (gobiernos locales)- no aceptan el hecho de que los saamis tengan garantizado el uso de su propia lengua y el ejercicio de su propia cultura por acuerdos que no se aplican al resto de la población. Además, algunos medios noticiosos y periodistas transmiten, sin la menor crítica, propaganda contra los saamis y expresan sus propias actitudes anti-saamis.

Ya sea a causa del Código Penal o por prácticas arraigadas, los fiscales públicos no acusan *stua sponte* los actos anti-saamis, los cuales ya se han arraigado en la vida cotidiana de nuestra sociedad. Las actividades organizadas anti-saamis por parte de la población mayoritaria son una fuente de angustia para los saamis, atemorizando a algunos de ellos hasta el extremo de que ya no se atreven a comportarse como saamis. La situación debilita esencialmente sus posibilidades *de facto* para usar su lengua materna, practicar su propia cultura y asumir su propia identidad y estilo de vida. Las actividades anti-saamis tienen también un efecto negativo sobre la toma de decisiones políticas, creando dificultades para alcanzar soluciones legislativas que afecten a la población saami.

Los informes periódicos décimo primero y décimo segundo de Finlandia

En su 48a sesión, del 26 de febrero al 15 de marzo de 1996, el Comité de la ONU para la Eliminación de la Discriminación Racial en el **punto 12** expresó su preocupación acerca de la participación de los saamis en el «Parlamento Saami» en su propia lengua materna; y en **el punto 24** recomendó que la Parte Estatal haga todo lo que esté en su poder para posibilitar a los niños saamis realizar sus estudios a nivel primario y secundario en su lengua materna.

Sobre el **punto 12**, el Parlamento Saami quisiera especificar que en Finlandia se utilizan tres lenguas saami: el saami del norte, el saami inari y el saami skolt. La legislación permite el uso de las tres lenguas en el Parlamento Saami tanto en las reuniones como en los informes. El saami del norte es usado sistemáticamente para ambos propósitos. Las otras dos pueden ser usadas para reuniones con interpretación simultánea. Sin embargo, su uso es menoscabado por la falta de recursos; tanto factores financieros como una escasez de intérpretes calificados.

En lo que respecta al **punto 24**, el Parlamento Saami establece que las escuelas primarias del municipio de Utsjoki tienen clases en las cuales los discípulos son enseñados en lengua saami y en la municipalidad de Inari la enseñanza de los niños de

El parlamento saami de Finlandia - 1997
Foto: Pii Valto Ohlejohka

habla saami transcurre aproximadamente la mitad en saami y la mitad en finlandés. Las escuelas a nivel secundario están especialmente afectadas por una carencia de materiales en lengua saami y de maestros de habla saami sobre materias especiales.

Se estima que existen sólo unos pocos niños en edad pre-escolar y escolar cuya lengua materna es el saami inari o el saami skolt. La enseñanza de estas lenguas en las escuelas está disminuyendo, porque son materias opcionales. El hecho de que los niños tomen o no clases opcionales de lenguaje es decidido por los padres, a quienes incluso se les prohibía hablar la lengua saami en la escuela hasta los años 60. Estos padres no se animan a poner a sus hijos en clases impartidas en saami por miedo a que los niños no aprendan suficiente finlandés. Las personas de habla saami inari o saami skolt suman de 400 a 500 personas. Estas lenguas están desapareciendo en Finlandia y en el mundo. El gobierno y la comunidad científica finlandesa muestran interés en el tema en algunas medidas prácticas demasiado escasas o invierten recursos demasiado escasos en las mismas. En realidad, no se necesitaría mucho para reinvertir el proceso.

Los problemas de educación en lengua saami están relacionados con la legislación, la administración escolar y los recursos.

Nuestra legislación no requiere con la suficiente falta de ambigüedad que los niños saamis sean enseñados en la lengua saami y se les brinde una educación escolar en esa lengua. Las escuelas son administradas por los municipios. La población saami no goza de una situación legal específica en el proceso de toma de decisiones sobre la educación de los niños saamis y en el uso de los subsidios del gobierno relativos a la misma. Estos fondos no están predeterminados para la población saami. En años recientes la tendencia regresiva de la financiación gubernamental ha conducido a un detenimiento de la evolución positiva previa, y los municipios no han sido capaces de llevar la educación de los niños saamis al nivel de las metas especificadas por la ley. La enseñanza de las lenguas minoritarias saami -saami inari y saami skolt- está en riesgo incluso por otra razón: son materias opcionales en las escuelas.

La lengua saami es el fundamento de la educación y de la cultura saami. La educación en lengua saami y la enseñanza de dicha lengua son parte de los derechos lingüísticos del pueblo saami y de los servicios básicos para los ciudadanos. La administración de los servicios básicos para los saami debería ser administrada, según la Ley sobre Autonomía Cultural Saami, por los mismos saamis, en vez de ser dependiente de los diversos organismos de la administración escolar municipal, de su composición, y del clima político de un momento dado.

A pesar de la legislación, los servicios de guarderías infantiles en lengua saami no funcionan a un nivel siquiera cercano al satisfactorio; en algunos lugares ni siquiera se otorgan. La lengua y la cultura saamis no son adecuadamente transmitidos por las generaciones de abuelos y padres a aquellos niños en edad pre-escolar que no gozan de los servicios de guarderías infantiles en esa lengua. En la próxima fase, la escuela separa a los niños de su antecedente cultural y de sus valores.

Si la lengua y la cultura saamis no existen en las guarderías infantiles y en la educación escolar transmitida de una generación a la próxima, morirán, tal como sucederá con las lenguas minoritarias saami inari y saami skolt durante la presente generación a menos que se tomen medidas rápidas para revivirlas.

Aquellos individuos de la población saami que están enfermos o son ancianos terminan en instituciones, en las cuales, como son de habla saami tienen poco contacto con el personal. Esto es debido a la carencia de los servicios de bienestar social y salud en lengua saami y de la casi total ausencia de personal de habla saami en los municipios de los territorios saami.

Las evidentes carencias en los servicios municipales de bienestar social y salud podrían ser remediadas adoptando la autonomía cultural saami como base para la legislación, administración, provisión, y moni-

toreo de los servicios de bienestar social y salud para los saamis.

Derechos territoriales

En el punto 11, el Comité para la Eliminación de la Discriminación Racial expresó su preocupación sobre las carencias en las garantías de los derechos territoriales del pueblo saami y sobre las actividades económicas nacionales e internacionales (minería, industria maderera, etc.) que amenazan el estilo de vida saami y **en el punto 23** propuso que el Gobierno de Finlandia redacte una política clara sobre los derechos territoriales saamis y sobre la ratificación del Convenio No. 169 de la OIT.

En su actual legislación Finlandia no garantiza los derechos saamis sobre la tierra, el agua y los recursos naturales; ni tampoco garantiza al pueblo saami el derecho a los medios de subsistencia que son parte de su cultura. Esto se aplica tanto a los derechos relativos a la propiedad de la población saami y a sus derechos de acuerdo a los tratados internacionales.

Ya en 1978 el Comité sobre Derecho Constitucional del Parlamento dio una opinión (PeVL 7/1978 vp) de que promovería los objetivos del Convenio para la Eliminación de la Discriminación Racial y aumentaría la protección legal otorgada al pueblo saami si la ley sobre la división de las áreas acuáticas, en lo que concierne a los derechos legales de las comunidades saami, eran los mismos que aquellos de otros detentadores de títulos. Hasta la fecha, esto no ha sido implementado en lo que respecta a las áreas acuáticas saamis o los derechos pesqueros; sin embargo, los derechos pesqueros son protegidos por la Ley Constitucional de Finlandia, tal como lo destacó el Comité sobre Derecho Constitucional del Parlamento ya en 1978 (ver PeVL 30/1993 vp, p.ej.).

La situación es similar en lo que respecta al derecho ancestral de propiedad saami a la tierra -y los derechos relacionados a practicar la cría del reno, la pesca y la caza- que sigue sin reglamentación legal, a pesar de que el Comité sobre Derecho Constitucional del Parlamento ha urgido repetidamente al gobierno a que presente propuestas para resolver la cuestión sin demora (ver Pe VL 3/1990 y 6/1990 vp; HE 248/1994 vp, p. 3). Otra área en la cual estos derechos siguen sin estar reglamentados es la administración, en la cual los saamis todavía no disponen de una situación especial.

En 1993, al anterior Parlamento Saami le fue encomendada la tarea de redactar una propuesta sobre derechos territoriales, y el Parlamento estableció un grupo de trabajo para ese propósito. El actual Parlamento Saami prosigue con la tarea, con vistas a elaborar una propuesta en forma de una Ley Gubernamental, que por su parte, removería los obstáculos para la ratificación del Convenio No. 169 de la OIT. De acuerdo con los puntos de vista adoptados por el Ministerio de Justicia y el Ministerio de Trabajo, el Gobierno está obligado a brindar al Parlamento Saami apoyo material para realizar su tarea.

El Parlamento Saami considera que la preocupación expresada por el Comité sobre los derechos territoriales saami es justificada. La cuestión está en el Parlamento Saami para su arreglo, pero hasta la fecha el Gobierno no ha otorgado fondos para el trabajo. Aunque el Gobierno todavía tiene que adoptar una política sobre los derechos territoriales saami, de todos modos ha encargado al Parlamento Saami la tarea de redactar una propuesta para resolver la cuestión.

Derechos lingüísticos y culturales y recursos

Desde 1992, según la Ley de Lengua Saami (516/91), el pueblo saami ha gozado del derecho a usar la lengua saami frente a las autoridades, oralmente y por escrito, y recibir y contestar en la misma lengua. Sin embargo, en la práctica, el ejercicio de estos derechos lingüísticos por parte de los saamis está basado en la traducción e interpretación, originando obstáculos fundamentales en el trato con las autoridades. El nivel de derechos lingüísticos acordado a la población saami en la Ley de la Lengua Saami debería ser re-examinado para evaluar si alcanza el nivel garantizado a los saamis en la Ley Constitucional en lo referente al derecho a mantener y desarrollar su propia lengua y cultura (ver Capítulo 3). La situación de la lengua saami en las leyes escolares debería ser examinada bajo la misma luz.

En Inari, el centro de educación y capacitación para la región saami ya ofrece clases en finlandés y saami; el conocimiento de ambas lenguas está incluido en las calificaciones de los nuevos maestros contratados. El propósito de la escuela es preservar y desarrollar la cultura saami y los medios naturales de subsistencia. El pueblo saami tienen una posición determinante en la administración del centro de capacitación.

En 1996, el Parlamento Saami adoptó las tres lenguas saami habladas en Finlandia como las lenguas que tienen un estatus equiparado en el Parlamento. Saami inari, saami skolt y saami del norte. La implementación de la decisión está siendo pospuesta hasta que los fondos gubernamentales se pongan a disposición de la misma. En muchos lugares, los saamis ya han cambiado las lenguas. Esto se aplica particularmente al saami inari y el saami skolt, en ciertas áreas también al saami del norte. El renacimiento, mantenimiento y desarrollo de las lenguas saami requieren medidas expeditivas y recursos definidos.

Hoy la práctica de la cultura saami está subsidiada por el presupuesto estatal. Las decisiones sobre el destino de los fondos son realizadas por el Parlamento Saami. La Radio Saami tiene un canal para emisiones diarias en lengua saami. La construcción de un Museo Saami comenzó en el otoño de 1996. Todavía se necesitan medidas especiales para crear servicios culturales como emisiones televisivas en lengua saami, especialmente programas para niños, para apoyar las artes saami y para proteger la artesanía saami y el patrimonio cultural saami.

Los derechos fundamentales y la autonomía cultural del pueblo saami

La legislación relativa a la población saami ha sufrido recientemente una profunda reforma. El 17 de julio de 1995, en el contexto de la Reforma de los Derechos Fundamentales (969/95), se incorporó una nueva Sección 14 a la Ley Constitucional de Finlandia, la cual en la sub-sección 3 garantiza al pueblo saami, como pueblo indígena, el derecho a conservar y desarrollar su propia lengua y cultura. La reforma entró en vigencia el 1 de agosto de 1995. Al mismo tiempo, una nueva sección 51 a (973/95) fue

agregada a la Ley Constitucional, la cual otorga al pueblo saami, como pueblo indígena, autonomía cultural en relación a su lengua y cultura dentro de los territorios saami. Se incorporaron más previsiones específicas sobre la materia en la Ley del Parlamento Saami (974/95), la cual se aplica a un cuerpo de representantes electos por el pueblo saami entre ellos mismo y a los poderes de tal cuerpo. Las leyes sobre autonomía cultural entraron en vigencia a comienzos de 1996. No se aplican a los derechos territoriales o al derecho a la subsistencia (ver PeVM 17/1994 vp).

Junto con la Ley del Parlamento Saami, las enmiendas a la Ley Constitucional mejoran considerablemente las posibilidades del pueblo saami de desarrollar su propia lengua y su propia cultura en base a la autonomía cultural. Sin embargo, en la práctica, la implementación de la reforma está siendo enlentecida por una carencia de recursos y por las actividades anti-saamis.

El propósito de la Ley sobre el Parlamento Saami era ampliar ligeramente la definición de saami, la cual está basada en la lengua saami. A causa de un error técnico que por descuido fue dejado en la ley, la definición de saami se convirtió en tan ambigua (ver PeVM 17/1994 vp) que la mayoría de las personas no-saamis de los territorios saami tienen razón para creer que si lo desean pueden solicitar ser definidos como saamis. Ellos creen que esto les otorga un derecho a decidir sobre la autonomía cultural saami y disfrutar de otros derechos y beneficios otorgados al pueblo saami.

El Parlamento Saami adoptó el 1 de marzo de 1996 una declaración para llamar la atención sobre los errores de la Ley sobre el Parlamento Saami. El Parlamento rechaza la nueva definición, más amplia, de saami y exige que la definición basada en la lengua sea restaurada a lo que era la definición en el Decreto sobre el Parlamento Saami (988/90) y que todavía está en la Ley de la Lengua Saami (516/91). Si esa definición no es restaurada, existe el riesgo que la definición más amplia en la práctica conduzca a la forzada asimilación de los saamis a la población mayoritaria, en contra de los propósitos de la legislación sobre autonomía cultural. En su declaración, el Parlamento exige también que las leyes relativas al registro electoral para el Parlamento Saami sean armonizadas con las salvaguardias de la ley de la Comunidad Europea para la vida privada de un grupo étnico.

Relaciones entre los grupos de población

La naturaleza no resuelta de los derechos territoriales saami y los derechos a la subsistencia junto con los problemas relativos al derecho saami a la autonomía cultural y una definición ambigua de saami está por volcar el concepto de autonomía cultural para el pueblo saami en contra de los saamis.

Algunos miembros de la población mayoritaria de los territorios saamis se han organizado en un grupo registrado llamado «Lappalaiskulttuuri-ja perinnedyhdistys r.y.» (asociación para la cultura y las tradiciones laponas). La asociación trabaja sistemáticamente contra la población saami y contra la autonomía cultural para el pueblo saami, tratando de probar que sus propios miembros son los saamis reales y que el pueblo saami es autoadjudicado y falso. El propósito de esta actividad es socavar la identidad de la minoría saami y oscurecer y negar la existencia de la cultura saami. El grupo anti-saami no está interesado en la lengua y la cultura del pueblo saami. En cambio, tratan, contra los deseos de la población saami, de ser electos al Parlamento Saami como saamis, para poder gozar de los beneficios económicos que esperan obtener y anular la autonomía cultural saami.

Los medios utilizados por el grupo incluyen amenazas públicas sobre guerra civil y violencia. El grupo ha difundido públicamente mentiras y comentarios difamatorios sobre el pueblo saami, sus representantes, y funcionarios de la administración saami, además de difundir propaganda anti-saami. El grupo ha obstruido el trabajo del Parlamento Saami solicitando a la policía y a las autoridades más elevadas el ejercicio del control de la legalidad para investigaciones y ha presentado demandas a las cortes supremas para la cancelación de los resultados de las elecciones para el Parlamento Saami y por la publicación de los registros electores sobre los saamis, los cuales registran el origen étnico.

Los municipios de los territorios saamis -Enotekiö e Inari- donde los saamis constituyen una minoría, han actuado en apoyo de las actividades anti-saamis de la mayoría de la población.

Una serie de medios noticiosos y periodistas -como el periódico provincial más grande de Lapland, el importante periódico nacional y una agencia de noticias nacional- ha transmitido sistemáticamente, desde la primavera de 1995, propaganda anti-saami en nombre de «Lappalaiskulttuuri-ja perinnedyhdistys r.y.» Este tipo de actividad parece aumentar y tomar formas más duras.

El derecho penal

Hasta la fecha, los fiscales públicos no han considerado necesario *sua sponte*, según el Código Penal finlandés, acusar a las actividades dirigidas contra los saamis. Además, el Código Penal finlandés (Capítulo 11, Sección 8) no cumple en ningún respecto las obligaciones del Artículo 4 del Convenio sobre la Eliminación de la Discriminación Racial. El Artículo exige que la Parte Estatal declare ilegales, entre otras cosas, los siguiente actos:

- toda difusión de ideas basadas en la superioridad racial o en el odio;
- la incitación a la discriminación racial contra grupos étnicos o individuos;
- la asistencia a las actividades racistas, incluyendo el financiamiento;
- las organizaciones que promuevan la discriminación racial;
- las actividades organizadas y todo otro tipo de propaganda que promueva la discriminación racial; y
- la participación en tales organizaciones u actividades.

Todas las obligaciones del Artículo 4 del Convenio deberían ser incorporadas en el Derecho Penal finlandés de la forma requerida por el Convenio.

Este artículo está basado en una carta del Parlamento Saami de Finlandia al Ministerio de Relaciones Exteriores de Finlandia concerniente al Informe de Finlandia a la Comisión de la ONU sobre la Eliminación de la Discriminación Racial. ❑

El Grupo de Trabajo sobre Poblaciones Indígenas celebró su 15ª sesión desde el 28 de julio hasta el 1 de agosto, bajo la presidencia de la Sra. Erica Daes. A la sesión asistieron 40 gobiernos observadores, 13 organizaciones de las Naciones Unidas, organizaciones intergubernamentales y no-gubernamentales así como también una numerosisima participación de representantes indígenas, en constante aumento, de todo el mundo. La asistencia de este año alcanzó un máximo de 887 participantes.

Este año el Grupo de Trabajo conmemoró la primera Conferencia de ONG sobre pueblos indígenas en las Naciones Unidas en Ginebra. Esta conferencia fue titulada «*Conferencia sobre la discriminación contra las poblaciones indígenas de las Américas*» y fue celebrada en septiembre de 1977. Fue esta conferencia que comenzó el proceso que condujo a la creación del Grupo de Trabajo sobre Poblaciones Indígenas.

La 15ª sesión del Grupo de Trabajo sobre Poblaciones Indígenas fue inaugurada con una ceremonia de apertura muy impresionante, la cual comenzó con una marcha de representantes indígenas del «Palacé des Nations» a través del predio de la ONU hasta la sala de reuniones. Una vez adentro, los portavoces indígenas, así como los funcionarios de las Naciones Unidas dieron discursos y saludos en conmemoración del evento. En sus discursos, cada uno de ellos homenajeó a todos los representantes indígenas que en los últimos veinte años habían luchado por el reconocimiento de sus derechos dentro de la estructura de las Naciones Unidas. Aunque hubo un reconocimiento general de que se había logrado un cierto progreso, y se reconoció la importancia del Grupo de Trabajo, todos señalaron el largo camino que queda por delante antes de que sus derechos básicos sean plenamente reconocidos.

La 15ª sesión del Grupo de Trabajo sobre Poblaciones Indígenas tuvo un tema central «*tierra-medio ambiente y desarrollo sustentable*», el cual fue discutido intensamente. Ciento cuarenta participantes indígenas presentaron sus declaraciones sobre este punto. El acceso a la tierra y a los recursos fue identificado como el tema fundamental para la supervivencia física y cultural de los pueblos indígenas por los oradores indígenas así como también por el documento de trabajo de la Sra. Daes (E/CN.4/Sub.2/1997/17).

La agenda de la 15ª sesión también examinó temas como el concepto de «indígena» y el establecimiento de un foro permanente en el seno de las Naciones Unidas. Los participantes indígenas aprovecharon la oportunidad para expresar sus preocupaciones y puntos de vista con respecto a esos puntos de la agenda y esta edición de Asuntos Indígenas incluye diversas declaraciones presentadas en la reunión por: el Jefe Oren Lyons de la Nación Onondaga Haudenosaunee en nombre de los Pueblos Indígenas Norteamericanos, el Grupo de Pueblos Indígenas Asiáticos, el Sr. Hjalmar Dahl de la Conferencia Circumpolar Inuita, el Sr. Nepuni Piku de la Alianza Internacional de los Pueblos Indígenas-Tribales de los Bosques Tropicales, la Sra. Anjali Daimari del Foro de Justicia de las Mujeres Boro, el Sr. Kuupik Kleist en nombre de los países Nórdicos incluyendo a los Parlamentos Saamis Nórdicos y el Gobierno Autónomo de Groenlandia, el Sr. Marcial Arias García de la Alianza Internacional de los Pueblos Indígenas-Tribales de los Bosques Tropicales y el Gran Consejo de los Cree.

Lola García-Alix (IWGIA)

Comentarios de apertura del Jefe Oren Lyons, Nación Onondaga Haudenosaunee, en nombre de los Pueblos Indígenas Norteamericanos

«No veo una delegación para los cuadrúpedos. No veo ningún asiento para el águila. Los olvidamos y nos consideramos superiores, pero somos, después de todo, sólo una parte de la creación. Y debemos seguir comprendiendo donde estamos. Estamos entre la montaña y la hormiga, en algún lugar y sólo allí, como parte y parcela de la creación».

ONU, Ginebra, Suiza, septiembre de 1977, Oren Lyons

Hoy me tocó la responsabilidad de hablar en nombre de los pueblos indígenas del hemisferio occidental, más específicamente de América del Norte, llamada la Isla Tortuga.

En 1977, tuve deberes similares siendo uno de los delegados originales a esa ahora histórica ocasión. La Invitación a las Organizaciones No-Gubernamentales a hablar sobre la Prevención de la Discriminación y Protección de las Minorías en el foro de la Comisión de Derechos Humanos, precisamente aquí en estos mismos recintos.

En ese entonces, se hicieron grandes esfuerzos para llevar a los delegados indígenas a Ginebra para que presentaran testimonio sobre las condiciones de nuestros pueblos. Esto fue logrado y 160 delegados participaron en ese evento. Vinimos en busca de justicia para nuestros territorios. Vinimos aquí para apelar al mundo en general a que apoyara nuestros esfuerzos para buscar soluciones justas para la discriminación, la explotación, el racismo, el etnocidio y el genocidio de las naciones y pueblos indígenas.

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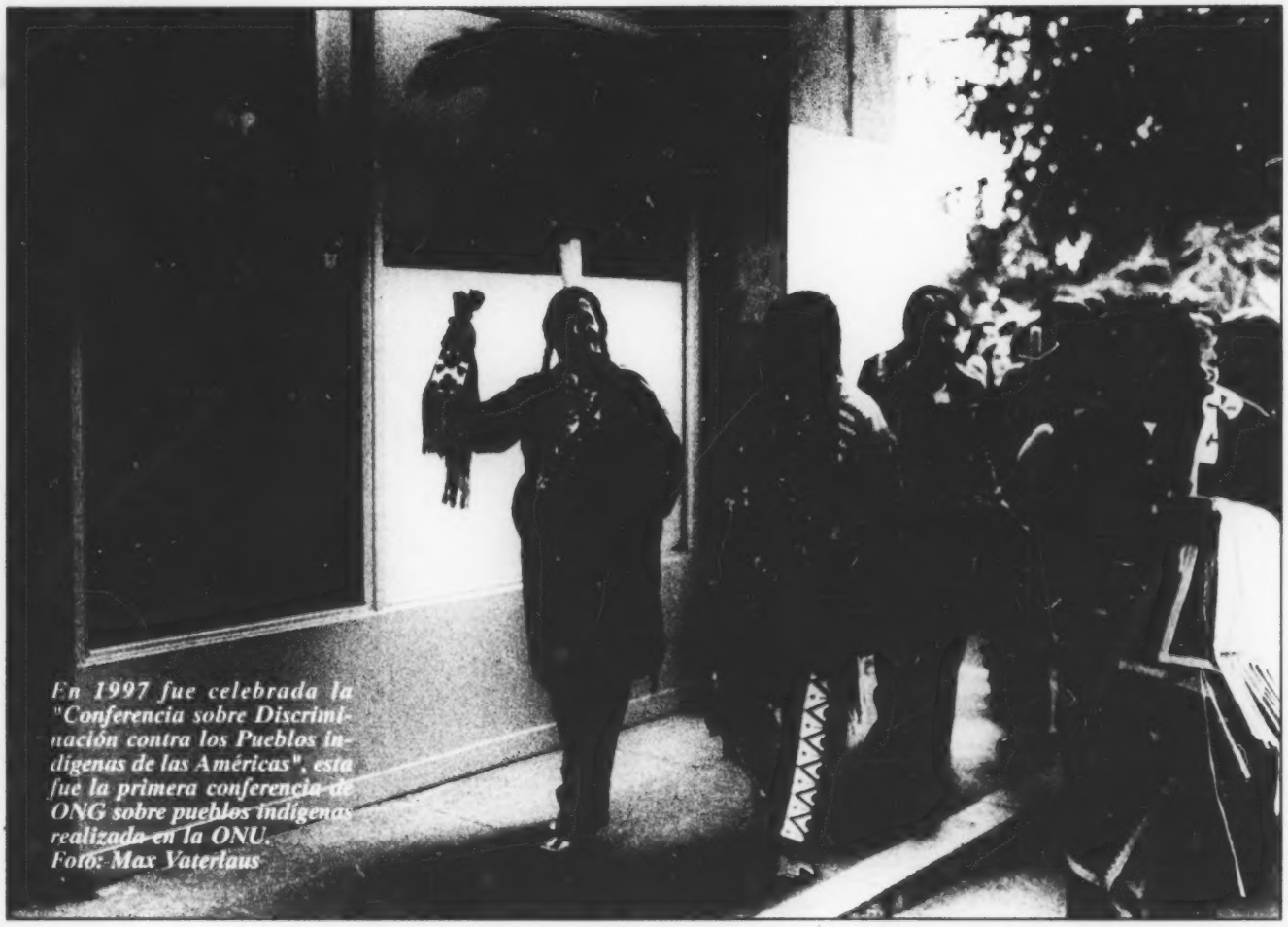

En 1997 fue celebrada la "Conferencia sobre Discriminación contra los Pueblos indígenas de las Américas", esta fue la primera conferencia de ONG sobre pueblos indígenas realizada en la ONU.
Foto: Max Vaterlaus

Vinimos aquí a hablar en nombre del mundo natural que es saqueado por los gobiernos y las corporaciones. Hablamos en nombre de los árboles enraizados que no pueden escapar a las motosierras. Hablamos en nombre del salmón, del arenque, del atún y del eglefino matados en sus lechos de reproducción. Teníamos noticias alarmantes desde las Cuatro Direcciones sobre los peces, los animales y las aves, contaminados, enfermos y en desaparición. Y hoy continuamos hablando en su nombre. Hoy están más amenazados que nunca, y en todo caso, sus condiciones son peores.

¿Qué les podemos informar sobre los pueblos indígenas hoy? Las buenas noticias son que todavía estamos aquí y que tenemos la intención de estar aquí dentro de veinte años. Esperamos que nuestra próxima generación esté mejor que la de hoy en lo que respecta a todos.

En 1982, se estableció el Grupo de Trabajo sobre Poblaciones Indígenas. Protestamos sobre el término «poblaciones»; insistimos que «pueblos» era el término apropiado, por la simple razón de que reconocería a nuestras Naciones como seres humanos con derecho a los derechos humanos. Hoy, informamos de progresos limitados. Notamos que gran parte de la comunidad internacional todavía continúa designando a los pueblos y poblaciones como minorías, impidiendo así la extensión de los derechos humanos a nuestros pueblos. Esto no excluye el hecho de que somos seres humanos y que esa es una cuestión moral que pone a prueba la integridad de los estados nacionales.

La modificación de principios conduce a la desintegración del gobierno. En este momento, los líderes mundiales son desafiados por el surgimiento de un desenfrenado capitalismo no reglamentado. Necesitamos recordar que el capitalismo no es la democracia. Los gobiernos necesitan pueblos; las corporaciones necesitan recursos. Un reciente estudio publicado por el World Watch Institute, una publicación internacional, destacó que, y lo cito, *«de las cien unidades económicas más ricas del mundo de hoy, 49 son países y 51 son corporaciones»*.

El balance del poder económico ha cambiado en favor de las corporaciones, en donde las decisiones están basadas en los beneficios económicos a corto plazo. Hay muy poca visión a largo plazo. Eso se deja a los gobiernos. Sin embargo, observamos una muy limitada visión a largo plazo por parte de los líderes mundiales y decimos que los beneficios están siendo obtenidos hoy a expensas de nuestros nietos y el mundo natural.

La fundación de los Haudenosaunee (las Seis Naciones, Confederación Iroquesa, alrededor del año 1000 A.C.) está basada en los principios de la paz, la equidad y la justicia; el poder y la salud de las «Buenas Mentes». La Autoridad Fundadora es conocida como El Gran Pacificador. Entre las muchas instrucciones que dio, una es especialmente relevante para la situación del mundo de hoy.

Él dijo: *«Cuando se sienten y estén en concejo por el bienestar del pueblo, no piensen en ustedes, en su familia, o ni siquiera en su generación. Piensen en la generación futura, de talmanera que pueda disfrutar lo*

que ustedes disfrutan hoy. Esto asegurará la paz y la salud de su generación». (Guyanashanagonah, La Gran Ley de Paz, alrededor del 1000 A.C.).

Los líderes de hoy deben tener el coraje y la convicción de hacer lo que es beneficioso para todos los pueblos para trabajar por el bien común. Si es que la democracia va a prevalecer, entonces ustedes, en tanto que líderes del mundo, deben combatir la consolidación de la riqueza (y el poder que otorga) en menos y menos manos. Tengan cuidado de que las corporaciones «estados» no se coman a las Naciones.

Los pueblos indígenas están recién comenzando a ser reconocidos como pueblos con importantes conocimientos fundamentales sobre el mundo en que vivimos. Este conocimiento ha provisto a nuestros líderes con visiones y perspectivas a largo plazo que se coordinan con los ritmos naturales de la Tierra. Esta comprensión de las leyes naturales gobernó las actividades de nuestros pueblos. El respeto es una ley en nuestras naciones y pueblos. Esta ley garantiza comunidad y paz. En estos tiempos, la humanidad debe trabajar junta, no sólo por la supervivencia, sino por la calidad de vida basada en valores universales que protejan la trama delicada e interrelacionada de la vida que nos sostiene a todos.

La ley natural no distingue colores y es sumamente democrática en sus retribuciones. La biodiversidad es un término clínico, técnico, para este intrincado entretejido de vida que nos sostiene. Nosotros, los pueblos indígenas decimos que estamos relacionados con esta vida; por lo tanto, sus *«recursos»* son nuestras relaciones. Todo radica en cómo lo miren. El gran esfuerzo realizado en la Cumbre de la Tierra de 1992 en Río, para obtener el consenso y el mutuo apoyo para la protección del medio ambiente, fue recientemente evaluado en la Cumbre de la Tierra del 5 de junio de 1997. Los resultados fueron desalentadores. No obstante, no podemos abandonar nuestras responsabilidades con respecto a nuestras futuras generaciones.

Dijimos eso en 1977, lo volvemos a decir en 1997. Los pueblos indígenas tienen algo que ofrecer en esta ecuación por la supervivencia. Tenemos la perspectiva del tiempo. Viviendo en un lugar durante miles de años nos ha dado una comprensión de las complejidades de las fuerzas de la vida. Nuestros lenguajes son bibliotecas de conocimiento que pueden contener claves para la supervivencia, y yo uso esa palabra prudentemente. Uno de nuestros Ancianos dijo hace mucho tiempo que, *«llegará un tiempo en el que dejaremos de vivir y comenzaremos a existir».*

En nombre de la vida y de nuestros nietos, no podemos permitir que eso suceda en nuestra generación. Tenemos objetivos y responsabilidades en común, y digo, que ustedes, los líderes de esta gran esperanza de los habitantes de este mundo, las Naciones Unidas, deberían estar trabajando con nosotros y no contra nosotros. Les decimos que mientras que hagan la guerra contra Etenoha (la Madre Tierra), nunca podrá haber paz.

Punto 4.a de la Agenda: el concepto de «pueblos indígenas»

Declaración del Grupo de Pueblos Indígenas Asiáticos

Señora Presidenta:

En nombre de los pueblos indígenas de Asia, nosotros, los pueblos indígenas de Asia representados por el Grupo de Pueblos Indígenas Asiáticos en la 15ª Sesión del Grupo de Trabajo sobre Poblaciones Indígenas, 1997.

COMPARTIMOS la posición asumida por todos los pueblos indígenas presentes en la 14ª Sesión del Grupo de Trabajo sobre Poblaciones Indígenas en 1996, en que no aceptamos ningún intento de definirnos o que se nos imponga una definición desde fuera.

APOYAMOS la posición expresada en su Documento (E/CN.4/SUB.2/Ac.4/1997/2, 19 de junio, 1997).

OPINAMOS que los criterios del Informe Martínez, las notas de la Presidenta/Informante y el Convenio Nº 169 de la OIT son adecuados para determinar si una persona o comunidad es indígena o no.

Sin embargo, ya que varios gobiernos asiáticos expresaron el punto de vista de que una definición era esencial y debía ser elaborada, y que como Ud., Señora Presidenta, ha sostenido que hay espacio suficiente para una razonable evolución y una especificidad regional del concepto de «indígena» en la práctica;

Deseamos invitar a los gobiernos de Asia a un diálogo y discusión abiertos, si es necesario, bajo los auspicios de la ONU para llegar a un entendimiento del concepto de «indígena» en el contexto de Asia.

Esperamos que tal diálogo conduzca al reconocimiento de la universalidad de los derechos de los pueblos indígenas.

Punto 5.a de la Agenda: Tierra, Medio Ambiente y Desarrollo

Presentación de la Conferencia Circumpolar Inuita, presentada por el Sr. Hjalmar Dahl

Gracias Señora Presidenta por permitirme tomar la palabra. También quisiera aprovechar esta oportunidad para felicitarla por su reelección como presidenta informante del Grupo de Trabajo. Igual que años anteriores, estamos complacidos de seguir trabajando con Ud. y sus colegas durante esta sesión del Grupo de Trabajo sobre Poblaciones Indígenas.

Yo represento a la Conferencia Circumpolar Inuita (ICC), la cual es una Organización Internacional Inuita que representa aproximadamente a 130.000 *inuitas* de Groenlandia, Alaska, Canadá y Chukotka, en la Federación Rusa.

Señora Presidenta:

Es un objetivo fundamental de la política ártica del ICC proteger el delicado medio ambiente, incluyendo los recursos marinos y otros recursos de los cuales dependen los inuitas. El derecho a un medio ambiente seguro y saludable es un derecho humano emergente y es especialmente importante para los inuitas. Dentro del vasto territorio inuita, los inuitas tienen el derecho y la responsabilidad de asegurar la integridad del medio ambiente circumpolar y sus recursos, como una continua fuente de vida, subsistencia y bienestar para las presentes y futuras generaciones.

Como representante de los inuitas de Groenlandia, Canadá, Alaska y Chukotka, ICC goza hoy de un estatus de Participante Permanente, junto con el Consejo Saami y la asociación de las Minorías Indígenas del Norte, Siberia y el Lejano Oriente de la Federación Rusa, en el Consejo Ártico, después de haber trabajo conjuntamente en la Estrategia Ártica de Protección del Medio Ambiente durante los últimos 6 años.

Uno de los resultados de esta iniciativa fue presentado en la reunión Ministerial en Alta, Noruega, en junio de este año. El informe llamado Programa Ártico de Monitoreo y Evaluación, AMAP, reveló que el Ártico, comparado con otras partes del mundo todavía sigue siendo uno de los medios ambientes más limpios. Pero, el informe también concluyó que ciertos Contaminantes Orgánicos Persistentes, incluyendo a los PBC's y muchos pesticidas como el DDT, lindano, toxafeno, y cloranato, producidos y usados mucho más al sur, están ahora diseminados por todo el Ártico. Muchos no se desintegran en nuestro medio ambiente sino que, en cambio, se alojan en los tejidos grasos de los animales y aumentan en concentración en los niveles más altos de la cadena alimenticia. Esta situación nos deja grandes preocupaciones y problemas y todavía no sabemos cuáles pueden ser los efectos a largo plazo de estas conclusiones, incluso sobre nuestro pueblo. Por lo tanto, nuestro límpido medio ambiente ártico está siendo amenazado hoy por otros,

lejos de nuestros territorios, y por supuesto nosotros, como representantes de nuestro pueblo, hacemos lo posible para influir a los ocho países árticos y otros organismos gubernamentales del sistema de la ONU y hacemos un llamado por una acción inmediata para eliminar o al menos limitar las emisiones y usos de fuentes contaminantes.

Es también una necesidad para nosotros exhortar a los Estados Nacionales que cooperanen el Consejo Ártico y en la Estrategia Ártica de Protección del Medio Ambiente que consideren las prácticas indígenas locales en relación a la implementación de la Agenda 21 de la Declaración de Río y el Convenio sobre la Biodiversidad.

Señora Presidenta:
Como pueblos aborígenes, los inuitas tienen el derecho a ejercer un control suficiente sobre los asuntos que afectan sus territorios tradicionales, comunidades e intereses. Una parte integral de este derecho de autodeterminación dentro de los estados es el derecho a la autogestión.

Para optimizar la autodeterminación inuita dentro de los estados, los poderes de las instituciones de autogestión deben incluir el ejercicio de la jurisdicción y control sobre tierras y aguas.

Me agradaría brindar al Grupo de Trabajo una copia de un trabajo informativo sobre Derechos a la Tierra, Recursos y Medio Ambiente - el Caso de los Inuitas en el norte de Canadá y el Acuerdo de Nunavut. El Acuerdo de Nunavut entre el Gobierno de Canadá y los inuitas se centra en la propiedad y manejo de áreas terrestres, acuáticas y oceánicas y sobre la fauna, y la generación y reparto de la riqueza originada a través del desarrollo de recursos naturales dentro del área de asentamiento.

La ICC también decidió aprovechar esta oportunidad para informar a Ud. y a los miembros del grupo de trabajo sobre lo que sucede en el Ártico en lo referente al respeto de los inuitas de los principios de los derechos humanos y desea que nuestro territorio circumpolar sea sólo usado para propósitos que sean pacíficos y seguros. Ninguno de estos objetivos son verdaderamente realizables en forma aislada.

La llamada «guerra fría» terminó, pero, no obstante, todavía existen problemas que afectan a los inuitas y surgirán posiblemente nuevos problemas.

Durante la última sesión de la Comisión de Derechos Humanos, informamos a los miembros que el reasentamiento forzado del pueblo de Thule, *inughuit* de la parte más septentrional de Groenlandia, en 1953, todavía es un tema que tiene que ser tratado y resuelto por las autoridades danesas con la participación y consentimiento de los inughuitas. Esto todavía no ha sucedido. Esa es la razón por la cual los supervivientes y los descendientes de los inughuitas a través de su organización de base «Hingitaq» (Desterrados 1953) ha elegido llevar el caso a la justicia danesa para que lo decida, para probar la violación de los derechos humanos fundamentales y para recuperar los cotos de caza perdidos y obtener compensación.

Señora Presidenta:
En 1951, Dinamarca y los Estados Unidos de América celebraron un acuerdo de defensa relativo a Groenlandia. Según un arreglo técnico secreto del acuerdo se estableció la Base Thule de la Fuerza Aérea de los EE.UU., en el Distrito de Thule, ocupando un área muy grande en el centro del territorio tradicional de caza de los inughuitas, el pueblo de Thule, sin su consentimiento ni consulta. Debido a una solicitud de los EE.UU. en referencia a una necesidad militar, la base fue expandida en 1953, conduciendo al traslado forzoso del pueblo, los inughuitas -con sólo unos pocos días de advertencia- del poblado de Uummannaq.

La autoridad local presentó recién una demanda de compensación en 1959 y 1960 por las pérdidas ocurridas por la intrusión en el territorio de caza, pero las autoridades danesas han dejado constantemente de responder a la demanda, negándose así a hacer justicia.

La Conferencia Circumpolar Inuita apoya las demandas de «Hingitaq 53» ante la justicia danesa. Nuestro compromiso en este caso es en forma de asesoría.

Señora Presidenta:
Otro tema que ha terminado convirtiéndose en un tema candente en Groenlandia y Dinamarca es el posible almacenamiento de materiales nucleares en Groenlandia. Según un informe elaborado por una corporación americana llamada RAND, Groenlandia es considerada como una de las áreas más seguras del mundo para almacenar materiales nucleares, lo cual ha sido positivamente recibido por las principales autoridades groenlandesas. El último paso político en este contexto es comenzar una investigación imparcial sobre si el posible almacenamiento de materiales nucleares será ambientalmente responsable o seguro, o no.

Aunque el argumento político es contribuir a la paz mundial en conexión con un posible almacenamiento de materiales nucleares, es una necesidad de importancia fundamental para la Conferencia Circumpolar Inuita reafirmar su oposición al almacenamiento y/o desecho de materiales nucleares en el Ártico. Desde su comienzo, la Conferencia Circumpolar Inuita ha aprobado numerosas resoluciones para promover al Ártico como una zona de paz desmilitarizada y libre de materiales nucleares. Además, debe hacerse énfasis en que la ICC ya en 1992 adoptó los Principios y Elementos de una Política Ártica Comprehensiva, en la cual una de las secciones establece clara y específicamente que el Ártico «no debe ser usado para almacenamiento o desecho de substancias peligrosas de cualquier tipo que provengan de otros lugares».
Gracias.

Declaración de la Alianza Internacional de los Pueblos Indígenas-Tribales de los Bosques Tropicales, por el Sr. Nepuni Piku

Presidenta, distinguidos delegados y mis queridos hermanos y hermanas indígenas. Los miembros de la Alianza Internacional de los Pueblos Indígenas-Tribales de los Bosques Tropicales de todo el mundo se reunieron en Nagpur, India, del 3 al 8 de marzo de 1997 en su tercera conferencia internacional. Fue una ocasión histórica para nosotros los pueblos indígenas y tribales, en la cual celebramos una consulta y discusión de una semana de duración sobre temas que afectan nuestras vidas.

Presidenta, mientras que celebrábamos esta reunión, nos entristeció la ausencia de nuestras hermanas y hermanos de la región del Amazonas y de Malasia, cuyos derechos al libre movimiento y asociación con otros pueblos indígenas fueron coartados por los gobiernos de Malasia y de la India mediante la creación de un problema consular.

En esta conferencia, nuestros participantes informaron de casos de serias violaciones contra nuestros pueblos. El abuso, Presidenta, ha ocurrido en nombre del progreso social, la unidad nacional, el desarrollo económico, la seguridad nacional/militar, y puede ser considerado un caso de etnocidio y genocidio de los pueblos indígenas. Mientras que para los gobiernos, eso sería simplemente un caso de cambio social.

Los casos de violación presentados durante la conferencia incluyeron:
- la enajenación de tierras y recursos *adivasis* con patrocinio estatal en la India;
- la falta de reconocimiento de los derechos legales a la tierra de los adivasis;
- la necesidad de una ley forestal comunitaria en Tailandia para permitir a los pueblos indígenas asentarse en su territorio ancestral y el otorgamiento de la ciudadanía;

- la violación de los derechos territoriales indígenas por parte de compañías mineras en Guyana, Filipinas y el Pacífico;
- la patente de genes indígenas en Papúa Nueva Guinea;
- la explotación comercial desenfrenada de las tierras indígenas en Indonesia;
- la expropiación de tierras indígenas en Sarawak por el gobierno malayo;
- la violación de derechos humanos y violentos conflictos en Africa;
- el fracaso en lograr la paz en la región de Chiapas, México;
- la falta de consulta con las organizaciones indígenas por instituciones «Indigenistas» en América del Sur y Central;
- la condena del fracaso político y la violación de derechos humanos en el noreste de la India;
- la extracción petrolera y el despojo de los territorios *ogoni* en Nigeria, Africa;
- el llamado por el reconocimiento de las comunidades indígenas y negras en Honduras;
- la condena de nuevas políticas liberales y económicas en Panamá;
- la demanda de reconocimiento de los derechos adivasis y autogestión; y
- el llamado por la autorepresentación y resolución de conflictos en Fiji.

Presidenta, el poder y la creatividad de los pueblos indígenas en la presentación de perspectivas alternativas sobre la construcción nacional, el desarrollo económico, la autosuficiencia y la conservación fueron también destacados y aplaudidos, probando la certeza de la afirmación «si los pueblos indígenas sobreviven, el mundo sobrevivirá».

Los participantes de la conferencia afirmaron la salvaguardia de nuestras tierras, bosques, aguas e identidades como requisitos para la supervivencia como pueblos, en un momento cuando la globalización económica impulsada por las políticas neoliberales ha significado la invasión y el consumo intensificados en los territorios indígenas y tribales.

Presidenta, nosotros los pueblos indígenas y tribales estamos convencidos que a la luz de esa experiencia la adopción del proyecto de Declaración sobre los Derechos de los Pueblos Indígenas de la ONU y la Asamblea General, y su implementación a través de la legislación y reforma nacional es una agenda de urgente acción.

Nosotros, la Alianza Internacional de los Pueblos Indígenas y Tribales de los Pueblos de los Bosques Tropicales, creemos que los pueblos indígenas-tribales pueden asociarse a la comunidad internacional en la búsqueda de soluciones a los problemas globales relacionados a la tierra, el medio ambiente y el desarrollo.

Apelamos por más espacio en un espíritu de respeto mutuo para un diálogo más sano y una colaboración entre los pueblos de los gobiernos y los pueblos indígenas y tribales.

Gracias por su amable atención.

Punto 8 de la Agenda: Consideraciones sobre un Foro Permanente para los Pueblos Indígenas

Declaración del Sr. Kuupik Kleist en nombre de los países Nórdicos, incluyendo los Parlamentos Saamis Nórdicos y el Gobierno Autónomo de Groenlandia

Gracias, Señora Presidenta:

Hablando en nombre de Dinamarca, Finlandia, el Gobierno Autónomo de Groenlandia, Islandia, Noruega, Suecia incluyendo a los Parlamentos Saamis de Finlandia, Noruega y Suecia, me complace hacer uso de la palabra sobre el punto 8 de la agenda, titulado «Consideración de un foro permanente para los pueblos indígenas», el cual consideramos como uno de los puntos más importantes del Decenio y de esta reunión.

Los países Nórdicos apoyan vehementemente el establecimiento de un foro permanente para pueblos indígenas dentro del sistema de las Naciones Unidas.

También quiero aprovechar esta oportunidad para expresar nuestras gratitud al Gobierno de Chile por ser anfitrión del segundo seminario y por facilitar todo el evento, incluyendo los excelentes locales y el alojamiento. También agradecemos al Centro de Derechos Humanos de la ONU por organizar exitosamente este evento en Chile.

El resultado del seminario fue un éxito. Al seminario asistieron más de 100 participantes, incluyendo a más de 10 organismos de las Naciones Unidas, organizaciones y agencias especializadas. El gran número de participantes es una clara señal de que existe un creciente interés en todas las partes del sistema de la ONU y en la comunidad internacional por la idea de un foro permanente. Hubo un muy importante intercambio de puntos de vista, y se celebró un debate fructífero durante el seminario en un verdadero espíritu de compañerismo.

Ahora tenemos el «Proyecto de Informe del Seminario celebrado de acuerdo con la Comisión de Derechos Humanos res. 1997/30» frente a nosotros (Doc.E./CN.4/Sub.2/AC.4/1997/CRP.1). El informe refleja de manera adecuada el rico y comprehensivo debate que tuvimos en Santiago de Chile. Por lo tanto, no tenemos necesidad de entrar en muchos detalles en los comentarios siguientes. No obstante, los países Nórdicos desean mencionar algunos puntos que son de importancia para nosotros.

El informe muestra que todos los oradores opinaron que el Informe del Secretario General estableció un importante punto de referencia para las deliberaciones de la reunión. Los países Nórdicos, junto con la mayoría de los participantes, creen que el informe señala la clara necesidad de un foro permanente, mostrando que virtualmente no existen mecanismos dentro del sistema de las Naciones Unidas que otorguen a los pueblos indígenas la oportunidad de tomar parte en los procesos de toma de decisión y elaboración de políticas.

Volviendo a la discusión sobre el foro permanente, se realizaron substanciales progresos en cuestiones fundamentales relativas al mandato, participación e implicaciones financieras de un foro permanente.

Los países Nórdicos y muchos de los participantes opinaban que el mandato del foro debería ser amplio, para así poder ocuparse de todos los temas que afectan a los pueblos indígenas dentro del marco de ECOSOC. Sobre los temas de la participación, los países Nórdicos se encontraban entre los muchos participantes que expresaron el punto de vista de que el foro debería estar compuesto de un número igual de representantes gubernamentales e indígenas - ambos grupos con derecho al voto. En cuanto a los miembros, el foro debería tener unos 20 miembros, representando un equilibrio geográfico y deberían ser nominados por sus grupos regionales.

En lo que respecta a las implicaciones financieras, nosotros y muchos otros participantes, creímos que sería apropiado que el foro fuera financiado por el presupuesto regular de las Naciones Unidas. Los países Nórdicos consideran que se podría disponer también de contribuciones voluntarias si fuera posible.

Los países Nórdicos imaginan que el establecimiento de un foro permanente debería ser considerado como parte del proceso de reforma de las Naciones Unidas, y que valorizaría al sistema de las Naciones Unidas.

Dirigiendo la atención a la conclusión del seminario, que se ve muy bien reflejada en el informe, los países Nórdicos apoyan plenamente la sugerencia hecha de que «la Comisión deDerechos Humanos en su sesión 54 considere cómo seguir el proceso en dirección al establecimiento de un foro permanente de pueblos indígenas dentro del sistema de la ONU, *inter alia* mediante la redacción de propuestas concretas».

Como los intereses de los pueblos indígenas abarcan tanto los derechos humanos como los asuntos sociales, económicos, culturales y ambientales, los países Nórdicos junto con la mayoría de los otros participantes opinan que el foro permanente debería ser establecido al más elevado nivel del sistema de las Naciones Unidas y sería muy apropiado que estuviera ubicado directamente bajo ECOSOC. Por lo tanto, nosotros alentamos al Grupo de Trabajo a que proponga a la Comisión de Derechos Humanos que considere la posibilidad de presentar el asunto a ECOSOC.

Tal como se acordó en el seminario, los países Nórdicos quieren subrayar la importancia de anexar al informe los cuatro documentos puestos a disposición en el seminario. Estos documentos, entre otros el Documento Danés sobre un Boceto de un Foro Permanente para Pueblos Indígenas y la Declaración de Temuco, constituyen una base importante para el trabajo futuro sobre este tema en la próxima sesión de la Comisión de Derechos Humanos.

Para lograr impulsar el proceso, los países Nórdicos exhortan al grupo de trabajo a que presente el informe junto con cualquier comentario que surja de esta discusión a la Subcomisión en su sesión venidera. Es importante que el proceso de redacción comience lo antes posible, en un espíritu de compañerismo y con la activa participación de los pueblos indígenas.

Ahora se hará circular el informe entre los Gobiernos, el sistema de las Naciones Unidas y las organizaciones de pueblos indígenas. Tenemos la esperanza de que todas las partes interesadas aporten comentarios sobre el informe para así contribuir al debate en la Comisión de Derechos Humanos. Esto brindará a la Comisión la base más apropiada para impulsar el proceso sobre el establecimiento de un foro permanente.

Gracias, Señora Presidenta.

Declaración de Marcial Arias García, Panamá, en nombre de la Alianza Internacional de los Pueblos Indígenas-Tribales de los Bosques Tropicales

Permítanme intervenir en nombre de la Alianza Mundial de los Pueblos Indígenas de los Bosques Tropicales sobre el punto 8 que se refiere al examen del establecimiento de un foro permanente para los pueblos indígenas.

Sra. Presidenta, he participado en dos seminarios que ha programado las Naciones Unidas sobre el establecimiento del Foro Permanente para los Pueblos Indígenas, y en ningún momento he escuchado a los representantes gubernamentales, las Organizaciones No Gubernamentales ni a los pueblos indígenas oponerse al establecimiento. Existen diversas opiniones sobre el alcance que puede tener el foro, por ello algunos han insistido en la definición del término «Pueblos Indígenas», y otros tienen ciertos recelos en la duplicación de su trabajo con el Grupo de Trabajo.

También el informe del Secretario General resaltó la necesidad de crear mecanismos para los pueblos indígenas dentro del sistema de las Naciones Unidas, cuando señaló claramente que no existía ningún mecanismo que ofreciera a los pueblos indígenas la oportunidad de tomar parte en la adopción de decisiones.

En ese sentido, Sra. Presidenta, no podemos seguir dilatando la discusión a través de los seminarios. Creemos firmemente, que es necesario dar otros pasos más seguros para su establecimiento. Por tanto, pido a este Grupo de Trabajo que considere la recomendación del segundo taller, para que la Comisión de Derechos Humanos examine en su 54 período de sesiones la manera de impulsar el proceso de establecimiento de este foro. No se debe ahora pretender justificarlo a través de las reformas que lleva a cabo las Naciones Unidas, al contrario, creo que las reformas deben tomar en cuenta los cambios que existen en la actualidad.

Hoy estamos conmemorando los 20 años de la presencia indígena en el sistema de lasNaciones Unidas, si las reformas consideraran realmente la reforma de las Naciones Unidas, el día en que aprobaran el Foro Permanente para los Pueblos Indígenas, estaríamos reconociendo la plena participación de los pueblos indígenas en el nivel más alto del sistema de las Naciones Unidas. Entonces estaríamos hablando de las reformas reales que necesitaba la Organización de las Naciones Unidas. Entonces se estaría dando una oportunidad a los Pueblos, a los cuales les ha sido negada la voz históricamente, y se los ha marginado totalmente en la toma de decisiones sobre los problemas que les concierne.

Sra. Presidenta, hubiese sido muy importante que este Grupo de Trabajo hubiera examinado el informe del Secretario General relativo al examen de los mecanismos, procedimientos y programas existentes en las Naciones Unidas con respecto a los pueblos indígenas, ya que dicho informe enfoca una realidad palpable sobre la participación de los pueblos indígenas en el sistema de las Naciones Unidas.

Finalmente, Sra. Presidenta, invito a los gobiernos y a mis hermanos indígenas a que apoyen la recomendación de muchos participantes del segundo taller de someter el establecimiento del foro permanente a las instancias del ECOSOC.

Muchas gracias

Declaración del Gran Concejo de los Crees

1. El Gran Concejo de los Crees asistió al reciente seminario sobre un Foro Permanente para los Pueblos Indígenas en Santiago, Chile.
2. Nos complace el informe de ese seminario. Señalaríamos que la idea sobre el establecimiento de un foro permanente está recibiendo un apoyo renovado y adicional de varios Estados, y que Estados que previamente se oponían al establecimiento de un foro permanente ahora han suavizado sus posiciones, declarando en cambio que no tienen un juicio formado sobre su establecimiento.
3. Es importante señalar que había consenso sobre un punto crítico: todos los participantes, tanto pueblos indígenas como Estados acuerdan que el Informe del Secretario General demuestra que actualmente el sistema de las Naciones Unidas no sirve adecuadamente a las necesidades de los pueblos indígenas del mundo.
4. En nuestra opinión esto demuestra la necesidad de establecer el Foro Permanente para los Pueblos Indígenas.

Hemos celebrado ahora dos seminarios y se hace más evidente que debemos movernos en dirección al establecimiento de un foro permanente. Señora Presidenta, quisiera realizar algunas propuestas y solicitaría a este Grupo de Trabajo que en su informe las presente como recomendaciones.

Queremos ver al foro permanente establecido dentro del Decenio Internacional y debemos entrar en acción ahora para que esto sea posible.

Solicitamos al Grupo de Trabajo en su reflexión sobre el informe del Segundo Seminario sobre un Foro Permanente para Pueblos Indígenas, celebrado en Chile, que exhorte a la Comisión de Derechos Humanos a que decida sobre el establecimiento de un foro permanente y traslade este tema al Consejo Económico y Social.

Solicitamos que el Grupo de Trabajo recomiende el inmediato establecimiento de un puesto asesor dentro de la oficina del Secretario General para coordinar y fortalecer la respuesta de las Naciones Unidas sobre los temas indígenas y para coordinar los pasos necesarios que conduzcan al establecimiento de un foro permanente dentro de las Naciones Unidas.

Señora Presidenta, solicitamos al Grupo de Trabajo que tome esta iniciativa para lograr el cumplimiento de la propuesta aprobada en la Cumbre de Viena sobre Derechos Humanos. ❑

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COMENTARIO:

Hay algo podrido en los "Estados" de Australia...

Desde 1993 Michael Dodson ha publicado anualmente el "*Informe de Títulos Nativos*" y el "*Informe Anual*". Las ediciones de este año son las últimas, ya que el término de Michael Dodson como el primer Comisionado de Justicia Social para los Aborígenes e Isleños del Estrecho Torres llega a su fin. El gobierno australiano aparentemente no está dispuesto a prolongar su empleo, un hecho que el resto de nosotros no podemos más que lamentar profundamente. Es otro síntoma del cambio de política que conduce el Primer Ministro John Howard y su gobierno en relación con los *aborígenes* y los *isleños* del Estrecho Torres.

Los informes de Michael Dodson nos han brindado cada año un material invalorable sobre la situación de los pueblos indígenas de Australia, y percepciones e informes sobre los sucesos y eventos de cada año relacionados con los mismos. Los informes finales de este año de Michael Dodson constituyen una lectura siniestra, y sólo se agregan a la decepción que uno siente ya sobre la conclusión de su mandato.

Ambos informes reflejan, por supuesto, el lamentable estado de cosas en estos momentos en Australia. Los aborígenes y los isleños del Estrecho Torres están enfrentados a un fuerte retroceso tanto en la forma de la *legislación-Wik* del gobierno; una Ley de Enmienda de 400 páginas que en realidad extingue la *Ley del Título Nativo*, y también a un deterioro de las condiciones de los aborígenes e isleños del Estrecho Torres en la sociedad en general, especialmente en las actitudes hacia los pueblos indígenas de Australia y en la eliminación de los programas de bienestar social orientados a los aborígenes e isleños del Estrecho Torres. Es con un creciente asombro y descreimiento que los gobiernos y los pueblos fuera de Australia siguen las propuestas y la alterada política del gobierno de Howard. La nueva posición de la política indígena asumida por el gobierno de Howard ha sido también sentida en los foros internacionales, p. ej., en el Grupo de Trabajo sobre Poblaciones Indígenas de la ONU, este año.

El Sr. Dodson pone en perspectiva los acontecimientos de los últimos años y como la política del gobierno con relación a los aborígenes e isleños del Estrecho Torres ha cambiado totalmente desde comienzos de 1996, cuando el Sr. Howard asumió el poder.

Los Primeros Pueblos de Australia han sufrido desde la colonización la falta de cualquier tipo de tratado con las sociedades blancas colonizadoras que se establecieron en Australia. Existen sólo unos pocos ejemplos de que los Primeros Pueblos, en cualquier parte del mundo, hayan sido tratados justa y equitativamente. Sin embargo, los tratados han provisto en algunos lugares una base para un reconocimiento jurídico e incluso (aunque ridículamente pequeñas) compensaciones económicas. Los Primeros Pueblos de Australia y las Islas del Estrecho Torres no lograron siquiera este mínimo reconocimiento. Según los colonos blancos foráneos, ellos no eran más que parte de la fauna, y Australia era *Terra Nullius*, *tierra vacante*. La doctrina de *Terra Nullius* fue sólo parcialmente quebrantada cuando la Suprema Corte de Australia tomó sus decisiones Mabo y Wik, la última de las cuales confirmaba que el *Título Nativo* no era necesariamente extinguido por arriendos ganaderos y otros derechos. El título nativo es el derecho al uso de la tierra con propósitos tradicionales, si como un pueblo indígena se puede probar una relación continua con un área específica. Es un otorgamiento de derechos muy limitado, y no es comparable de ninguna manera con la propiedad. Lo que John Howard quiere probablemente lograr con su Ley de Enmienda es la extinción de una vez por todas del título nativo, aunque él trata de convencer al resto del mundo que ese no es el caso.

Desde el Referéndum de 1967, con respecto a los aborígenes e isleños del Estrecho Torres ha habido un lento pero constante desarrollo que ha mejorado las condiciones de los pueblos indígenas de Australia. El momento sumo fue cuando la Ley del Título Nativo fue aprobada en 1993. Una posibilidad para el reconocimiento de tales derechos fundamentales como el derecho a su propia tierra se hizo repentinamente posible. Por eso es que la Ley de Enmienda constituye un retroceso tan importante para los aborígenes e isleños del Estrecho Torres. Australia es todavía una sociedad plena de prejuicios y discriminaciones que los aborígenes e isleños del Estrecho Torres tienen que enfrentar y vivir cada día. Michael Dodson documenta esto minuciosamente en los apéndices del *Informe Anual*.

Ambos informes del Sr. Dodson presentan la respuesta y posición de los pueblos indígenas frente a la nueva política del gobierno. La cuestión de por qué el gobierno es tan duro en su política hacia los aborígenes e isleños del Estrecho Torres puede quizá solo ser respondida por la falta de conocimiento y comprensión de los temas, si es que no es una cuestión de puro racismo. Tal como lo señala Michael Dodson, los colonos blancos no sólo trajeron la desposesión de los primeros pueblos con ellos, sino que también trajeron una tradición legal que reconoce derechos básicos de propiedad y otros derechos humanos. Los valores básicos son el centro de la política del gobierno hacia todos los otros grupos étnicos de Australia excepto los aborígenes y los isleños del Estrecho Torres. ¿Por qué entonces, todos esos valores y derechos no son aplicados cuando se trata de los pueblos indígenas de Australia? Por ejemplo, ¿por qué los jóvenes aborígenes son arrestados en custodia a miles de millas de sus parientes y familiares por crímenes menores, cuando al mismo tiempo el gobierno apoya a la familia como el elemento básico para construir una sociedad? El mantenimiento en custodia de los jóvenes aborígenes es ciertamente destructivo, y podría ser tan fácilmente resuelto si las comunidades locales aborígenes y las familias pudieran tener una participación. Como se dice "*Se necesita una población...*" para criar a un niño, pero las actuales prácticas y las instituciones de mantenimiento en custodia no permiten ciertamente a una *población* aborigen asumir sus responsabilidades. Michael Dodson también informa sobre las horribles condiciones en conexión con violaciones menores de la ley que los jóvenes aborígenes se ven obligados a sufrir. El gobierno no hace nada. ¿Por qué no se presentó ninguna Ley de Enmienda al Parlamento para abolir el actual sistema de custodia?

Uno de los muy buenos puntos de Michael Dodson es la descripción de la pacífica coexistencia entre los colonos blancos y los aborígenes en la industria ganadera. Sin la fuerza de trabajo indígena no habría habido ninguna industria ganadera en Australia. Ha sido una fuente de riqueza y prosperidad, al menos para los blancos. Pero en la coexistencia se puede encontrar un modelo para una solución a todos los malentendidos y abusos que tienen lugar. Esto es por supuesto una cuestión política, si es que este tipo de coexistencia es una meta deseable. Pero al menos el gobierno australiano debería trabajar en aras del respeto de los derechos humanos básicos para todos sus ciudadanos, especialmente los derechos de los descendientes de los pueblos, que a través de su patrimonio ancestral tienen, más que nadie, el derecho de nacimiento a la tierra en Australia.

La relación con la tierra es de una importancia central para la supervivencia cultural y también física de los primeros pueblos de Australia. Aparte de que los derechos de propiedad constituyen un derecho humano básico para todos los pueblos, las prácticas religiosas de los aborígenes e isleños del Estrecho Torres están íntimamente conectadas con los sitios sagrados y la tierra en sí misma. Negar el acceso a la tierra y la protección de los sitios sagrados y los lugares de prácticas religiosas es negar a los aborígenes e isleños del Estrecho Torres el derecho a su identidad religiosa, y a un nivel más amplio el derecho a la existencia como pueblos diferenciados con sus propias culturas.

Es este derecho que John Howard está extinguiendo cuando él y su gobierno extinguen el título nativo. Los informes de Michael Dodson ilustran esto claramente, y describen todas las violaciones de derechos básicos que los pueblos indígenas de Australia tienen que soportar.

***Michael Dodson**. Aboriginal and Torres Strait Islander Social Justice Commissioner - Fifth Report 1997, Human Rights and Equal Opportunity Commission. Commonwealth of Australia.*

***Michael Dodson**. Aboriginal and Torres Strait Islander Social Justice Commissioner – Native Title Report July 1996 – June 1997, Human Rights and Equal Opportunity Commission. Commonwealth of Australia.* ❑

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Manejo Forestal Comunitario en Areas Protegidas

por Andrew Gray

En todo el mundo los pueblos indígenas se enfrentan a la imposición de áreas protegidas sobre sus territorios ancestrales. En América Latina, más del 80 por ciento de las áreas protegidas han sido establecidas en tierras indígenas mientras que en India, 600.000 personas tribales y habitantes de los bosques han sido desplazados para dar paso a la conservación ambiental. El libro «*Community Forest Management in Protected Areas. Van Gujjars Proposals for the Rajaji Area*» («*Manejo Forestal Comunitario en Areas Protegidas: Propuestas de los Van Gujjar para el Area Rajaji*») encara directamente estos temas, no sólo analizando los principios inexactos y discriminatorios mediante los cuales los conservacionistas y las instituciones gubernamentales establecen y manejan áreas protegidas, sino también proponiendo soluciones.

Los *van gujjar* son un pueblo forestal nomada que suma unos 7.000 individuos que viven en las montañas de Shiwalik en el norte de la India, no lejos de Dehra Dun. Su estilo vida trashumante implica apacentar a sus búfalos en las pasturas de los bosques más bajos, a unos 2.000 pies de altura en invierno, y trasladarse 200 kilómetros en los meses de verano entre abril y septiembre hasta las áreas montañosas más frescas, a una altura de unos 10.000 pies. Es un pueblo autosuficiente, que depende del bosque para obtener su subsistencia y alimentar a sus búfalos. También tienen importantes relaciones comerciales con las aldeas locales sedentarias.

En 1983, se realizó una notificación oficial sobre la intención de crear el Parque Rajaji, el cual cubriría 825 kilómetros cuadrados, integrando a los Santuarios de la Fauna de Chilla, Rajaji y Motichur, junto con algunos bosques reservados bajo el control del Departamento Forestal. Los van gujjar y los aldeanos de los alrededores de los límites del parque propuesto no fueron consultados; en realidad, el plan original del parque era expulsarlos de su territorio y trasladarlos forzosamente a un nuevo asentamiento fuera del área protegida. Los van gujjar se negaron a ser reasentados y finalmente el gobierno de Uttar Pradesh aceptó que sus deseos debían ser respetados.

Los van gujjar no objetaron la idea del Parque, pero no querían perder control sobre sus tierras y recursos. Mientras tanto, el Departamento Forestal tomó la responsabilidad sobre toda el área del parque propuesto y, mediante una estructura administrativa sumamente equivocada, afectó seriamente la subsistencia de los van gujjar. La caza furtiva, la corrupción, la desinformación y las amenazas han sido constantes problemas para los van gujjar durante los años recientes.

El libro documenta problemas ecológicos en el parque propuesto: deterioro de los bosques, reducción de la vegetación del suelo, plaga de malas hierbas, problemas con la fauna, aumento de la erosión de los suelos e incendios forestales. El Departamento Forestal culpa a los van gujjar y a los aldeanos locales por estos problemas ecológicos y con esta base argumentó su expulsión del área.

No obstante, el libro describe cada problema en profundidad y demuestra que lejos de que los van gujjar sean la causa del problema ecológico, la estructura administrativa del Departamento Forestal es la que tiene fundamentalmente la culpa. Además, el análisis demuestra como los van gujjar han protegido toda el área del parque propuesto durante siglos mediante su estilo de vida sensible con respecto al medio ambiente.

En vez de reasentar forzosamente a los pueblos indígenas, una propuesta cada vez más popular para resolver conflictos entre parques y pueblos está basada en el «Manejo Forestal Conjunto», según el cual los habitantes locales participan en la administración de un parque y el gobierno y las comunidades locales comparten la responsabilidad en forma asociada. Sin embargo, en un excelente análisis de esta forma de «gestión conjunta», el libro muestra que los van gujjar y las autoridades nunca pueden administrar un parque juntos como iguales. En primer lugar, la relación política entre las partes no es equitativa. Los van gujjar se encuentran reaccionando frente a iniciativas exteriores y no están en control de sus propias tierras y recursos. Además, los aldeanos dentro y en torno del parque viven en simbiosis con los van gujjar y ellos también necesitan ser incorporados sensiblemente encualquier plan de manejo.

En vez de una participación desigual que no recibiría legitimidad de parte de los van gujjar, el libro propone un modelo de Manejo Forestal Comunitario del área protegida, en el cual las comunidades locales toman las iniciativas y manejan sus recursos mientras que el estado contribuye con un papel de monitoreo y apoyo. Los van gujjar han demostrado durante siglos que ellos pueden manejar esta área, el libro ofrece una propuesta astuta y claramente escrita sobre como esto puede continuar. Para el establecimiento de cualquier parque son fundamentales los principios de control sobre los recursos y el consentimiento.

El libro pone en claro que mucho de los actuales problemas que enfrenta el área son estructurales y que es necesaria una nueva estructura administrativa. Propone un modelo democrático de instituciones indígenas (basado en las familias van gujjar y las localidades y también las aldeas) y vincula a éstas a comités regionales más totalizadores. En cada nivel, se incluyen representantes de otros intereses en los comités; pero fundamentalmente, los van gujjar deberían controlar sus vidas y destinos. El libro también explica la necesidad de un apoyo técnico local paralelo en forma de capacitación y programas de desarrollo.

El libro termina sugiriendo una serie de pasos prácticos mediante los cuales esta propuesta podría convertirse gradualmente en realidad, ampliándose a partir de un área central hasta incluir a las aldeas y gradualmente a toda el área protegida. De esta manera, la vida nomada de los van gujjar puede ser apoyada y el parque Rajaji propuesto puede ser protegido.

RLEK ha realizado un excelente trabajo de campo y ha producido un libro que podría servir de inspiración en la India y también en otras partes. Todo lo que falta es que las condiciones políticas y económicas se hagan accesibles de manera que los van gujjar puedan al fin controlar el Parque Nacional Rajajiy que se pueda encontrar soluciones constructivas para combatir la multitud de problemas que enfrentan los pueblos indígenas que viven en áreas protegidas.

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***Andrew Gray** es antropólogo y miembro del concejo internacional de IWGIA.*

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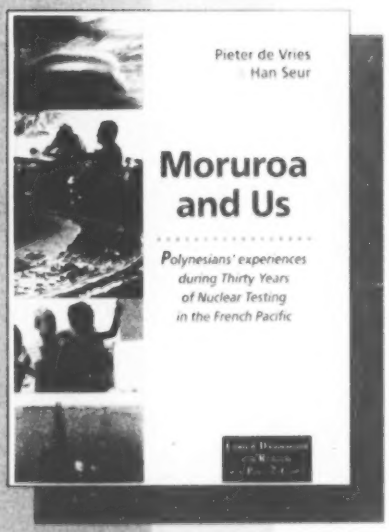

TREINTA AÑOS DE PRUEBAS NUCLEARES TREINTA AÑOS DE SILENCIO

por Diana Vinding

De 1966 a 1996, el gobierno francés probó casi 200 bombas atómicas en la Polinesia Francesa (la cantidad oficial no es conocida oficialmente). Hasta 1975 las pruebas nucleares eran atmosféricas y 45 bombas fueron detonadas sobre los atolones de Moruroa y Fangataufa. A partir de 1975 las pruebas fueron realizadas en el subsuelo y principalmente en Moruroa. Durante ese período fueron explotadas más de 150 bombas.

"Limpias e inofensivas"

¿Cómo afectó este programa masivo de pruebas nucleares la salud de los *polinesios* y su medio ambiente? Es chocante que se sepa tan poco. Durante treinta años, Francia ha rodeado su programa de pruebas con una atmósfera de secrecía. Y a pesar de las consecuencias bien documentadas de las pruebas nucleares de los Estados Unidos en las Islas Marshall (atmosféricas) y en el desierto de Nevada (subterráneas) desde el punto de vista de la radioactividad y la contaminación nuclear, el gobierno francés ha siempre sostenido que sus pruebas eran "limpias y totalmente inofensivas".

Sin embargo, es sabido que ha habido una serie de serios accidentes en relación con las pruebas nucleares. Para citar solo dos: en 1971 varias islas en el archipiélago de Gambier y Tuamotu fueron contaminadas por los residuos radioactivos y la población fue temporariamente evacuada; en 1981 un fuerte ciclón destapó más de 10 kilogramos de plutonio que habían sido enterrados en Moruroa bajo una capa de asfalto y 2.500 técnicos civiles amenazaron con levantarse en huelga si los residuos no eran limpiados.

Los polinesios y otras personas y grupos comprometidos han protestado durante años, alegando que existían muchas indicaciones de que las pruebas nucleares estaban teniendo impacto sobre la salud y bienestar de los isleños, y que, tal como en el caso de las Islas Marshall, la cantidad de casos de cáncer, abortos, mortinatos y otras enfermedades que podían ser atribuidas a pruebas nucleares habían aumentado en el transcurso de los años. Varios gobiernos, incluyendo al de Nueva Zelanda y el de Australia, han acusado a Francia por poner en peligro el medio ambiente así como también la subsistencia de los pueblos que habitan la región del Pacífico Sur.

Treinta años de silencio

Todo esto fue en vano. Las repetidas demandas de investigación relativas a la relación entre las pruebas y el aumento de la incidencia de varios tipos de cáncer y otras enfermedades no han sido tomadas seriamente. Durante muchos años los casos de cáncer no fueron registrados, e incluso hoy, las estadísticas médicas y epidemiológicas no son confiables. Los archivos de los hospitales no son accesibles con la excusa de que los hospitales están bajo "administración militar".

Tampoco ha habido ninguna investigación sobre la posible relación entre los daños a los arrecifes causados por la construcción de la infraestructura del centro de pruebas y el alarmante aumento del envenenamiento ciguatóxico (ciguatera) causado por el consumo de pescado. A las tres misiones científicas independientes que durante los años 80, después de mucha presión internacional, recibieron permiso para investigar el nivel de contaminación radioactiva y el estado ecológico del atolón, se les permitió solo visitar el atolón con aviso previo a corto plazo, solamente durante pocos días y bajo condiciones sumamente restringidas. Según los franceses, las misiones demostraron claramente que las pruebas nucleares en Moruroa no representaban un riesgo, pero el debate científico planteado por las misiones muestra que no hay, ni ha habido,

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ningún acuerdo dentro de la comunidad científica sobre los efectos -especialmente los efectos a largo plazo- de las pruebas nucleares atmosféricas y subterráneas.

Las experiencias de los polinesios

Todo esto está documentado en un nuevo libro, "Las experiencias de los polinesios de Moruroa y nosotros durante treinta años de pruebas nucleares en el Pacífico francés", escrito por dos sociólogos holandeses -Pieter de Vries y Han Seur- con el apoyo y la ayuda de la ONG polinesia Hiti Tau, la Iglesia Evangélica de la Polinesia Francesa, y muchos otros polinesios comprometidos.

El propósito ha sido suplir la carencia de información básica dejando la palabra a 737 ex trabajadores del sitio de pruebas e isleños que viven en la vecindad de Moruroa y Fangataufa, y documentar sus angustias e incertidumbres relativas a las pruebas nucleares.

No es oficialmente conocido cuántos polinesios trabajaron para el CEP. Las estimaciones están entre 10.000 y 15.000. Pero es la primera vez desde el comienzo de las pruebas en 1966, que ex trabajadores del sitio de pruebas son el objeto de una investigación independiente que examina cómo fueron reclutados, los tipos de trabajos que realizaban, cómo experimentaron las pruebas, y cómo percibieron los riesgos. El libro también describe sus sentimientos de angustia, temor e impotencia sobre qué es lo que el futuro les puede deparar a ellos, a sus familias y a sus comunidades como consecuencia de las pruebas.

Para completar el panorama, una serie de instituciones representativas del Gobierno, el Ministerio de Salud Pública, las iglesias, los partidos políticos, los sindicatos y los activistas antinucleares fueron entrevistados también y el libro presenta, además, un informe conciso sobre el debate científico acerca de los riesgos de las pruebas nucleares.

El resultado es un informe bien escrito y sobrio con informaciones alarmantes y que dan que pensar: el 33 por ciento de los trabajadores del sitio de pruebas fueron empleados durante más de diez años; el 10 por ciento de los trabajadores fueron reclutados aunque eran menores de 18 años (el 6 por ciento incluso niños menores de 16 años); el 49 por ciento ha pasado tiempo en áreas posiblemente contaminadas, el 41 por ciento trabajó en áreas posiblemente contaminadas y para la mayoría de ellos esto sucedió durante la era atmosférica (1966-1974). Entre quienes habían trabajado en áreas posiblemente contaminadas, el 38 por ciento declaró que a veces fueron expuestos a radioactividad o contaminación. Al mismo tiempo, parece que había incoherencia en la implementación de las reglas y reglamentos de seguridad, y más de la mitad de los trabajadores del sitio de pruebas admitieron pescar y consumir la pesca a pesar de los rumores de que el mar podría estar contaminado.

¿Qué futuro?

No es sorprendente que una de las principales angustias de los ex trabajadores del sitio de pruebas concierne a su salud y la salud de sus vástagos. Pero la investigación sobre los efectos a largo plazo del programa de pruebas nucleares sobre la salud de los trabajadores del sitio de pruebas nunca ha sido contemplada por los franceses, y parece que las autoridades francesas ni siquiera se molestaron en recabar las informaciones relevantes sobre este tema. Aunque la mayoría de todos los empleados (94 por ciento) fueron examinados médicamente antes de su llegada al sitio, y el 65 por ciento fue también examinado mientras que trabajaba para el CEP (Centre d'Experimentation du Pacifique), sólo el 48,5 por ciento fue examinado al final de su estadía en los sitios de pruebas.

La investigación también revela una serie de casos específicos de individuos que fueron expuestos a los riesgos de la contaminación radioactiva con consecuencias dramáticas. Toda esta gente tenía una cosa en común: que después de enfermarse o enterarse sobre sucesos profundamente alarmantes tuvieron que enfrentarse a un muro de descreimiento y desinterés de parte de los expertos médicos franceses y algunos fueron objetos de intimidación por parte de las autoridades.

No es sorprendente que aunque las pruebas ahora han sido detenidas, una gran mayoría de las personas que responden piensan que es importante continuar con la discusión sobre las posibles consecuencias de las pruebas nucleares y que se debería realizar una minuciosa investigación epidemiológica para contestar algunas de sus más urgentes interrogantes.

El tema no debería ser olvidado

En 1996, Francia decidió detener las pruebas nucleares, calmando así a la opinión mundial. Pero, como escriben los autores, "el hecho de que Francia y el mundo parezcan haber dado vuelta la hoja, no debe significar que podemos simplemente olvidarnos sobre los problemas que enfrentan los ex trabajadores y la población polinesia como un todo".

"Moruroa y nosotros" es una importante contribución al debate en torno al programa nuclear. También es un mensaje a la comunidad internacional para no olvidar la lucha de los polinesios para obtener respuestas a las interrogantes que han planteado durante tantos años. Sin la presión internacional es sumamente dudoso que las autoridades francesas vayan a aceptar alguna vez su responsabilidad y encaren los problemas que enfrentan los ex empleados del CEP.

__Diana Vinding__ es antropóloga, ha tenido relación con IWGIA durante muchos años y es miembro de la directiva de la Fundación de Copenhague Contra los Ensayos Nucleares.

Pieter de Vries y Han Seur

Moruroa y nosotros - experiencias de los polinesios durante treinta anos de pruebas nucleares en el Pacífico francés

(sólo en inglés)

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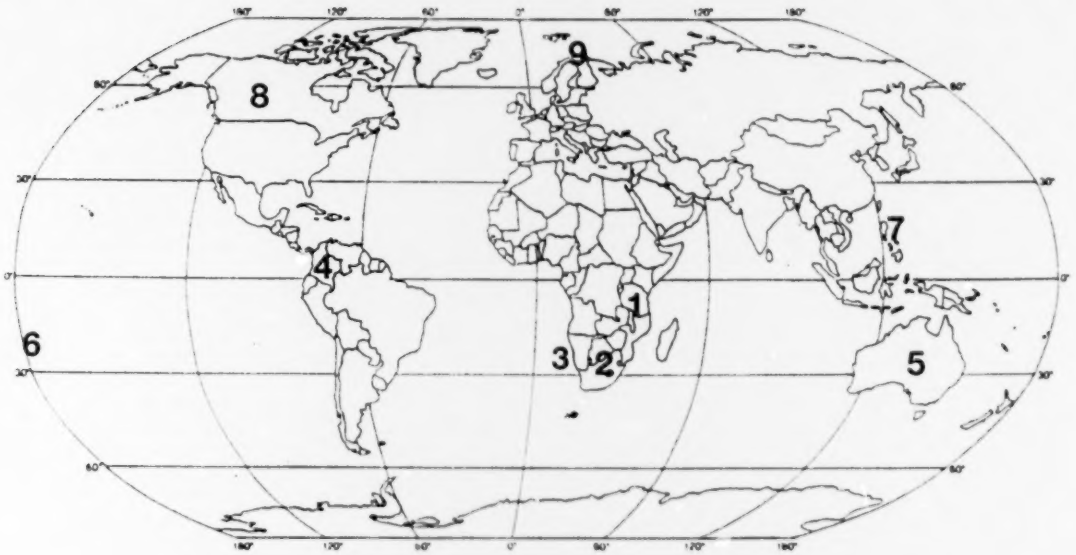

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